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U. S. DEPARTMENT OF AGRICULTURE,

FOREST SERVICE.

GIFFORD PINCHOT, FORESTER.

THE USE BOOK

REGULATIONS AND INSTRUCTIONS FOR
THE USE OF THE NATIONAL FORESTS.

ADMINISTRATIVE EDITION.

ISSUED BY THE SECRETARY
OF AGRICULTURE JULY 1, 1908.

1908.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1908.

"The Secretary * * * may make such rules and regulations * * * as will insure the objects of said reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of this act or such rules and regulations shall be punished (by \$500 fine or twelve months' imprisonment, or both) as is provided for in the act of June 4, 1888, amending section 5388 of the Revised Statutes of the United States." (Act of June 4, 1897, 34 Stat., 35.)

U. S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D. C., June 1, 1908.

SIR: I have the honor to present for your approval
a third revision of the regulations and instructions for
the use of the National Forests.

Very respectfully,

GIFFORD PINCHOT,
Forester.

HON. JAMES WILSON,
Secretary.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., June 3, 1908.

The accompanying regulations, bearing date June 1,
1908, are under authority conferred by law upon the
Secretary of Agriculture, hereby approved, to take
effect July 1, 1908, and all previous regulations in
conflict with them are hereby revoked. The Forester
is authorized to issue instructions for the execution of
these regulations and regulations hereafter established.

JAMES WILSON,
Secretary.

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TO THE PUBLIC.

The timber, water, pasture, minerals, and other resources of the National Forests are for the use of the people. They may be obtained under reasonable conditions without delay. Legitimate improvements and business enterprises are encouraged.

National Forests are open to all persons for all lawful purposes.

Persons who wish to make any use of the resources of a National Forest for which a permit is required should consult the nearest Forest officer.

Twenty-five per cent of all receipts from National Forests are given to the counties in which they lie, to be used for schools and roads.

No one but the Fiscal Agent, Forest Service, Washington, D. C., and the Special Fiscal Agent, Ketchikan, Alaska, is authorized to receive payments for any use of the Forests.

Payments must be in the form of postal or express money orders or national-bank drafts on New York City, drawn payable to the Treasurer of the United States. Other forms of drafts, checks, certified checks, or postage stamps will not be accepted. (Reg. 75, p. 149.)

Complaints should be made in writing, both to the immediate superior of the officer complained against and to the Forester, at Washington.

Every user of a National Forest will be held responsible for knowing the regulations and obeying them.

Throughout this book general information and directions are printed in this type.

Regulations are printed in this type.

Special instructions to Forest officers are printed in this type.

THE USE BOOK.

HISTORY AND OBJECTS OF NATIONAL FORESTS.

National Forests are created to preserve a perpetual supply of timber for home industries, to prevent destruction of the forest cover which regulates the flow of streams, and to protect local residents from unfair competition in the use of forest and range. They are patrolled and protected at Government expense for the benefit of the community and the home builder.

We know that the welfare of every community is dependent upon a cheap and plentiful supply of timber; that a forest cover is the most effective means of maintaining a regular stream flow for irrigation and other useful purposes, and that the permanence of the livestock industry depends upon the conservative use of the range. The injury to all persons and industries which results from the destruction of forests by fire and careless use is a matter of history in older countries, and has long been the cause of anxiety in the United States. The protection of the forest resources still existing is a matter of urgent local and national importance. This is shown by the exhaustion of lumbering centers, often leaving behind desolation and depression in busi-

ness; the vast public and private losses through unnecessary forest fires; the increasing use of lumber per capita by a rapidly increasing population; the decrease in the summer flow of streams just as they become indispensable to manufacture or irrigation; and the serious decrease in the carrying capacity of the summer range. It can not be doubted that, as President Roosevelt has said, "the forest problem is in many ways the most vital internal problem of the United States."

As early as 1799, and again in 1817, Congress provided for the purchase of timber lands to supply the needs of the Navy. Other acts from time to time made similar provisions for setting apart forest land for specific purposes, but the first attempt to secure a comprehensive administration of the forests on the public domain was in 1871, by a bill introduced in the Forty-second Congress, which failed of passage.

In 1876, \$2,000 was appropriated to employ a competent man to investigate timber conditions in the United States, and on June 30, 1886, an act was approved creating a Division of Forestry in the Department of Agriculture. On July 1, 1901, this division became the Bureau of Forestry (now the Forest Service, since the act of March 3, 1905), employing practically all the trained foresters in the United States, and engaged in almost every branch of forest work in every State and Territory except the actual administration of the Government forest lands, which remained in the Department of the Interior.

In the meantime, with the increasing realization that the Nation's timber supply must be protected, and with

the immense growth of irrigation interests in the West, the necessity for retaining permanent Federal control over selected forest areas was recognized by a brief section inserted in the act of March 3, 1891, which authorized the President to establish forest reserves, now called National Forests. (Appendix, p. 213.) The first exercise of this power was in the creation of the Yellowstone Park Timber Land Reserve, proclaimed by President Harrison March 30, 1891.

The mere creation of National Forests, however, without provision for their administration, was both ineffectual and annoying to local interests dependent upon their resources. Consequently, the Secretary of the Interior, in 1896, requested the National Academy of Sciences to recommend a National forest policy. This resulted in the passage of the act of June 4, 1897 (Appendix, p. 214), under which, with several subsequent amendments, National Forests are now administered.

On the theory that the management of land, not of forests, was chiefly involved, this law gave the Secretary of the Interior authority over the Forests and provided that their surveying, mapping, and general classification should be done by the United States Geological Survey, and the execution of administrative work by the General Land Office.

But the technical and complex problems arising from the necessary use of forest and range soon demanded the introduction of scientific methods and a technically trained force, which could not be provided under the existing system. The advice and services of the Bureau

of Forestry were found necessary, but, under the law, could be but imperfectly utilized. The necessity of consolidating the various branches of Government forest work became apparent and was urged upon Congress by the President and all the executive officers concerned. Finally, the act of February 1, 1905, transferred to the Secretary of Agriculture entire jurisdiction over the National Forests, except in matters of surveying and passage of title. (Appendix, p. 217.)

The regulations and instructions for the use of the National Forests here published are in accordance with the act last mentioned and the various supplementary and amendatory laws passed since June 4, 1897. They are based upon the following general policy laid down for the Forest Service by the Secretary of Agriculture in his letter to the Forester dated February 1, 1905:

“In the administration of the forest reserves it must be clearly borne in mind that all land is to be devoted to its most productive use for the permanent good of the whole people, and not for the temporary benefit of individuals or companies. All the resources of forest reserves are for *use*, and this use must be brought about in a thoroughly prompt and businesslike manner, under such restrictions only as will insure the permanence of these resources. The vital importance of forest reserves to the great industries of the Western States will be largely increased in the near future by the continued steady advance in settlement and development. The permanence of the resources of the reserves is therefore indispensable to continued prosperity, and the policy of this Department for their protection and use will

invariably be guided by this fact, always bearing in mind that the *conservative use* of these resources in no way conflicts with their permanent value.

“You will see to it that the water, wood, and forage of the reserves are conserved and wisely used for the benefit of the home builder first of all, upon whom depends the best permanent use of lands and resources alike. The continued prosperity of the agricultural, lumbering, mining, and live-stock interests is directly dependent upon a permanent and accessible supply of water, wood, and forage, as well as upon the present and future use of these resources under businesslike regulations, enforced with promptness, effectiveness, and common sense. In the management of each reserve local questions will be decided upon local grounds; the dominant industry will be considered first, but with as little restriction to minor industries as may be possible; sudden changes in industrial conditions will be avoided by gradual adjustment after due notice, and where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good of the greatest number in the long run.”

Any regulation or instruction whose enforcement would not secure the objects for which National Forests are created should be brought to the attention of the Forester.


CREATION OF NATIONAL FORESTS—ADDITIONS AND ELIMINATIONS.

The act of March 3, 1891 (Appendix, p. 213), provides that the President may set aside, by proclamation,

in any public land State or Territory, lands wholly or in part covered with timber or undergrowth, as public reservations. Under the authority of this act practically all of the existing National Forests have been created. Congress may, however, take such action, and has done so in a few cases. (Appendix, p. 214.) In an amendment to the agricultural appropriation bill approved March 4, 1907, it is provided that "hereafter no forest reserve shall be created, nor shall any addition be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming except by act of Congress." The power of the President to create or enlarge National Forests in other States and in the Territories is unimpaired.

The boundaries of the earlier Forests were not always carefully drawn. In 1903 the need of better choice of Forest boundaries led to the establishment of a force of trained men devoted exclusively to this work, under a uniform and complete system of field study and report. The results were satisfactory, and the system remains in effect. Before any National Forest is created or any change is made in the boundary of an existing Forest, a member of the Forest Service familiar with the work and with western conditions makes a careful investigation, not only of the lands, but also of the interests involved. The claims of all industries and classes of residents are weighed, in order that no injustice may be done.

The region is carefully mapped and described, and the boundary of the Forest is drawn to include only



lands suitable for Forest purposes. Possible agricultural areas are always excluded unless they are small and isolated.

In some cases areas temporarily withdrawn from entry, pending examination, contain land unsuitable for Forest purposes, and their withdrawal is viewed with alarm by local residents. It should be remembered that such withdrawals are not final and that unsuitable portions will be restored to the public domain.

All communications relating to the creation of National Forests or to changes in their boundaries should be addressed to The Forester, Forest Service, Washington, D. C.

Whenever a supervisor decides that there should be a change in the boundary of his Forest he should report the area recommended for examination by townships and sections, if possible, accompanying his report by an outline map. If an addition is recommended, he should state exactly what area, if any, should be withdrawn from settlement pending field examination.

In case of small additions or eliminations the Forester will, as a rule, instruct the supervisor to have the necessary examination made by the local force. Maps and reports will be prepared with sufficient detail to serve as a basis for final action without further examination.

THE FOREST SERVICE UPON NATIONAL FORESTS.

RELATION OF FOREST OFFICERS TO THE PUBLIC.

Forest officers are agents of the people. They must answer all inquiries fully and cheerfully, and be at least as prompt and courteous in the conduct of Forest business as in private business. They must obey in-

structions and enforce the regulations for the protection of the Forests without fear or favor, and must not allow personal or temporary interests to weigh against the permanent good of the Forests; but it is no less their duty to encourage and assist legitimate enterprises.

They must make every effort to prevent the misunderstanding and violation of Forest regulations by giving information fully and freely. The object should be to prevent mistakes rather than to take action after they have been made. Information should be given tactfully, by advice, and not by offensive warnings.

The excessive use of intoxicants by members of the Forest Service is a bar to their efficiency, and will be dealt with as such. Even moderate drinking can do the Service no good, and in not a few cases has done harm. It is not competent for the Forest Service to require total abstinence. It does, however, strongly discountenance drinking by men upon official duty, and it will take the necessary action whenever the dignity of a man's office or the effectiveness of his work is reduced thereby. There is no more effective way in which officers of the Service can strengthen this order than by their own example. Members of the Forest Service are urged to keep in mind that they are officers of the Government, and that the honor of the Service is at stake in the faithful performance of their duties.

Forest officers will be required to be thoroughly familiar with every part of this book, and to assist the public in making applications for the use of the Forests.

ORGANIZATION.

The permanent field force of the National Forests now contains the grades of chief inspector, inspector, forest supervisor, deputy forest supervisor, forest assistant, planting assistant, lumberman, scaler, forest ranger, and forest guard.

GENERAL QUALIFICATIONS AND DUTIES.

INSPECTORS.

Inspectors are appointed only from those who by their qualifications, training, and experience have gained great familiarity with Forest problems and unusual efficiency in the conduct of Forest business.

The inspector advises with all Forest officers and has free access to all official books, reports, or other records. He may call upon any supervisor for all necessary assistance, but he has no authority to give orders to any supervisor, or to any ranger, except one detailed by a supervisor to assist him.

His duties are to inspect the Forests in his district, see and report on existing conditions, and recommend changes for the better in both the business and technical management, and in personnel. He also assists the local officers, by suggestion and advice, in all Forest matters.

Inspection is organized by districts, with a chief inspector in charge of each, as follows:

District 1. Montana, Northern Idaho, Northern Wyoming, and Northwestern South Dakota. Headquarters, Missoula, Mont.

District 2. Colorado, Southern Wyoming, Southwestern South Dakota, Nebraska, and Kansas. Headquarters, Denver, Colo.

District 3. Arizona, New Mexico, Arkansas, Oklahoma, and Porto Rico. Headquarters, Albuquerque, N. Mex.

District 4. Utah, Western Wyoming, Southern Idaho, and Eastern Nevada. Headquarters, Salt Lake City, Utah.

District 5. California and Western Nevada. Headquarters, San Francisco, Cal.

District 6. Oregon, Washington, and Alaska. Headquarters, Portland, Oreg.


Each chief inspector has immediate supervision of the work of the inspectors assigned to his district. The need for inspection in any district may be indicated by the Forester, or by the chief inspector. Inspectors may, whenever necessary, make investigations on their own initiative with the approval of their chief inspector. All instructions from Washington dealing with inspection are addressed to the chief inspector concerned and are signed by the Forester.

Inspectors address all reports to the Forester and submit them through the chief inspector, who is responsible for the form and completeness of reports from his inspectors and for the consistency of their recommendations with the needs of the district as a whole.

Every administrative officer from the Washington office, when in the field, should get in touch with the chief inspector whose district he plans to visit, in order to avoid possible duplication in work.

The chief inspector has general supervision of the Forest boundary men in his district. He directs their work, except when they are engaged in the examination of additions to or eliminations from existing Forests, in which case they are under the instructions of the supervisor concerned. Needed boundary work will be indicated to the Forester by the chief inspector. Reports upon Forest boundaries are submitted to the Forester through the chief inspector, who handles them as inspector's reports. When the work is under the supervisor the reports are submitted by him to the Forester through the chief inspector.

The district headquarters are the official headquarters of the *chief inspectors, inspectors, and Forest boundary men.*



SUPERVISORS.

For the purpose of encouraging good men to enter the Service and do good work, as well as to utilize their experience, appointments to the position of forest supervisor are made by the promotion of competent deputy forest supervisors, forest rangers, or forest assistants. The qualifications for the position of supervisor include all those required of rangers, as hereafter outlined, with superior technical, business, and administrative ability. Knowledge of technical forestry is most desirable, but not always essential.

While certain general qualifications are required in every case, special fitness for employment in a special region is always considered. For example, in many heavily forested regions knowledge of timber and lumbering is more important than familiarity with the live-stock business.

Supervisors must give their entire time to the Service. They have full charge of their Forests, plan and direct all work, have entire disposition of rangers and other assistants, and are responsible for the efficiency of the local service. Under instructions from the Forester, supervisors deal with the public in all business connected with the sale of timber, the control of grazing, the issuing of permits, and the application of other regulations for the use and occupancy of National Forests. They keep the records and accounts and conduct the correspondence and general office business of their Forests and make reports to the Forester on all matters under their jurisdiction.

During his absence the supervisor should detail a member of his force to the charge of the office, when this is necessary to avoid serious delay in the transaction of Forest business. The officer so detailed should be definitely instructed, preferably in writing. So far as authorized by the supervisor, he should

handle the business of the office during the absence of the latter and should sign correspondence and documents as acting supervisor.

Supervisors have authority to suspend or to recommend the discharge of any subordinate, and also to recommend such changes in their force as the good of the Service may demand. The supervisor should exercise his power of suspension only in cases of flagrant misconduct or gross negligence, and in such cases should at once report in full with recommendations to the Forester.

Each supervisor is required to keep at his own expense one or more horses, with necessary equipment, for his transportation in the Forest.

Supervisors are allowed necessary expenses for board, lodging, and horse feed when absent from headquarters on official business, and transportation when it is impracticable to use their own horses.

DEPUTY SUPERVISORS.

Deputy supervisors may be appointed on Forests whose area or business warrants their assignment. The position requires the same qualifications as that of supervisor, and is filled by transfer or promotion from the other grades. The deputy supervisor will alternate with the supervisor in the office and in the field and will perform the duties of the supervisor in his absence. He may be given charge of all field work in a certain district, or over only one line of work, such as grazing or timber sales.

FOREST ASSISTANTS.

The position of forest assistant requires technical qualifications of high order, and is secured only through an examination which no man may expect to pass unless he has been thoroughly trained in forestry and *lumbering*. Forest assistants may be assigned to any

part of the United States, and must be competent to handle technical lines of work, such as the preparation of working plans and planting plans, the investigation of the silvics and uses of commercial trees, the study of wood preservation, and other investigations requiring a trained forester. They may be assigned to National Forests to assist in technical work, such as the examination and mapping of forest areas and reports on applications for the purchase of timber; in the marking, scaling, and management of timber sales; the survey of boundaries; the examination of agricultural lands under the act of June 11, 1906; nursery work and forest planting; examination of special uses, and other lines of work which require technical training. They will not be assigned exclusively to technical work, but should be given an opportunity to become thoroughly familiar with every feature of Forest business. The forest assistant is placed directly under the supervisor, who directs his work and to whom he submits his reports.

The supervisor is held responsible for the proper assignment of the forest assistant and the utilization of his technical training and experience.

Forest assistants are required to own and keep horses when necessary. They will be reimbursed for necessary expenses incurred away from headquarters on official business.

LUMBERMEN.

Lumbermen are appointed after civil-service examination, to pass which requires much previous experience in woods work and a high degree of proficiency in cruising, logging, and milling. A thorough knowledge of scaling methods is absolutely necessary.

Lumbermen will be assigned temporarily to the Forests where the need for their work arises. The supervisor should full

understand that they are subject to transfer on very short notice from one Forest to another when the need for their services elsewhere is urgent. After the assignment of a lumberman to a Forest and until he is assigned elsewhere, the supervisor will direct his movements and see that his services are utilized to the best advantage.

It is expected that the lumbermen will be of great assistance to the local officers in supervising logging and in check-scaling. They will also be of assistance in cruising and reporting on tracts of timber for which there is either an application or chance of an early sale.

The lumbermen should report fully to the supervisor on the scaling methods in practice in the locality in which they are working, and should recommend changes and improvements if any are necessary.

SCALERS.

Scalers are appointed after civil-service examination, to pass which requires much previous experience in scaling and woods work.

They are assigned temporarily to National Forests where the need for their work arises. When assigned to a Forest the scaler is under the direction of the supervisor. Scalers should be used only for supervising the scaling on large sales, for check-scaling, or for instructing rangers in this line of work, and when their services are no longer needed on a Forest the supervisor should promptly notify the Forester, that they may be transferred where the need for their services is more urgent.

PLANTING ASSISTANTS.

The position of planting assistant requires special training in nursery and planting work. Planting assistants work under the direction of the supervisor. Their duties include the preparation of seed beds, seed sowing, transplanting and care of seedlings, and field

planting. The planting assistant may be assigned to the regular duties of a ranger during the winter when nursery work is suspended.

RANGERS.

A ranger of any grade must be thoroughly sound and able-bodied, capable of enduring hardships and of performing severe labor under trying conditions. He must be able to take care of himself and his horses in regions remote from settlement and supplies. He must be able to build trails and cabins, ride, pack, and deal tactfully with all classes of people. He must know something of land surveying, estimating and scaling timber, logging, land laws, mining, and the live-stock business.

On some Forests the ranger must be a specialist in one or more of these lines of work. Thorough familiarity with the region in which he seeks employment, including its geography and its forest and industrial conditions, is usually demanded, although lack of this may be supplied by experience in similar regions.

The examination of applicants is along the practical lines indicated above, and actual demonstration, by performance, is required. Invalids seeking light out-of-door employment need not apply. Experience, not book education, is sought, although ability to make simple maps and write intelligent reports upon ordinary Forest business is essential.

For duty in some parts of Arizona and New Mexico the ranger must know enough Spanish to conduct Forest business with Mexicans.

Where saddle horses or pack horses are necessary in the performance of their duty, rangers are required to own and maintain them. The Forest Service furnishes no personal or horse equipment.

The entire time of rangers must be given to the Service. Engagement in any other occupation or employment is not permitted, except in accordance with Regulation 74.

Rangers execute the work of the National Forests under the direction of supervisors. Their duties include patrol to prevent fire and trespass, estimating, surveying, and marking timber, the supervision of cuttings, and similar work. They issue minor permits, build cabins and trails, oversee grazing business, investigate claims, report on applications, and report upon and arrest for violation of Forest laws and regulations.

Except in case of fire, rangers will not hire assistants without first obtaining authority from the supervisor.

So far as practicable, permanent ranger districts will be established, and rangers who are qualified by training and experience will be placed in charge of them. As a rule, assignments will be to permanent districts rather than to specific lines of work.

It is the policy to fill vacancies in higher positions by promotion of rangers rather than by appointment of men without experience on the National Forests, although otherwise well fitted.

FOREST GUARDS.

Forest guards are temporary employees whose duties are the same as those of assistant forest rangers. They may be appointed when additional men are required

for temporary patrol and protective work, or when it is impossible to get rangers from the list of eligibles furnished by the Civil Service Commission.

In all cases application for employment as forest guard should be made to the supervisor. Preference in the appointment of guards will always be given to local residents, especially those who desire to take the civil-service examination for forest ranger.

In recommending the appointment of a forest guard the supervisor should state his full name and the date on which he is to begin work. When appointments are recommended by telegraph, a copy of the telegram should be forwarded immediately by mail, or the spelling of the name confirmed by letter. This is absolutely necessary, since appointments are not signed until the confirmation is received, unless the proper spelling is already a matter of record in the Washington office. Supervisors should fully inform all applicants of the conditions under which they will serve. Guards must not begin work until the supervisor has been informed of the date on which their appointments take effect.

MEETINGS.

In order to give Forest officers the benefit of each other's experience, to keep them in touch with the entire work of the Forest, and to promote esprit de corps, a general meeting of the entire force on each Forest should be held annually. The time and place of the meeting will be left to the discretion of the supervisor. If possible he should hold a joint meeting with the supervisors of adjacent Forests. Such meetings should generally be held during the winter or in the spring shortly before the beginning of the fire season. They should be held, as far as possible, not in towns, but on the Forests. Meetings in large towns and cities should especially be avoided. Administrative officers from Washington and inspectors will be present at these meetings whenever possible.

The supervisor should give a brief statement of the affairs of the Forest, an outline of the work accomplished in the past year, and of plans for the future, to give the rangers some knowledge of what is going on outside their immediate districts. He should especially invite discussion and suggestions. Any doubtful points on which a ranger desires information should be brought up and thoroughly discussed. Informal talks should be given by Forest officers on technical problems, such as mapping and timber estimating, the different systems of marking, and silvics, which should be supplemented by actual demonstration in the woods. Such topics as permanent improvement work, fire fighting, and brush burning should be thoroughly discussed, and the rangers encouraged to give each other the advantage of their individual experience. The necessary transportation charges and expenses for lodging and subsistence may be authorized on application to the Forester.

The supervisor should always notify the Forester in advance of the date and place of meetings, and must request authority to hold meetings when an increase in his letter of authorization will be necessary.

Meetings of all supervisors within a given territory will be held at convenient points from time to time, to discuss matters of general policy.

Supervisors may be authorized by the Forester to attend, upon invitation, stock meetings, where such attendance is necessary to secure a proper understanding by Forest users of the administration of the National Forests, and in order that the Forest Service may profit by the suggestions of the users themselves.

After a meeting of any kind attended by him or any member of his force, the supervisor concerned will submit to the Forester a report with regard to the attendance of men from his Forest. The place, date, and kind of meeting should be stated, also the name and official designation of each member of his force in attendance. A statement should also be made concerning each man, his starting point, destination, and total expenses for attendance at the meeting. This report is in addition to the *usual brief report of the transactions of each meeting.*

REG. 1. The promotion of Forest officers will be considered only once a year, and all promotions for the year will be made on January 1, except in cases of transfer or reassignment.

EXAMINATIONS.

In accordance with the law which requires the selection of rangers and supervisors, when practicable, from the States and Territories in which they are to be employed (Appendix, p. 218), and the President's order placing them in the classified civil service, examinations for the position of assistant forest ranger are held, as required, in each State and Territory in which National Forests are situated.

Examinations for the position of forest ranger are along thoroughly practical lines, and are supplemented by field tests to determine the applicant's fitness to do the actual work on the Forest. The Civil Service Commission appoints Forest officers to conduct these examinations.

When authorized by the Civil Service Commission, additional expenses incurred by Forest officers on account of these examinations will be reimbursed. The accounts will not include any other items of National Forest administration, and will be sent to the Forester for transmission to the Civil Service Commission.

When certified by the Civil Service Commission and recommended by a supervisor, eligibles are given six months probationary appointment as assistant forest ranger. This appointment will become permanent at the expiration of the stated time, unless the services of the appointee have been unsatisfactory. In this case the supervisor must report the fact before the expiration of the probationary period and recommend separation from the Service.

REG. 2. Only legal residents of States or Territories in which appointments are to be made, and who are between the ages of 21 and 40, are eligible for the ranger examinations. This qualification will not be waived under any circumstances.

Applicants are examined as to fitness for positions in the State or Territory of which they are legal residents. An applicant may, however, take the examination at any place which is most convenient, even though it may not be in the State of which he is a legal resident.

The restriction as to residence is not imposed upon applicants for the forest assistant examination, for which the age limits are 20 and 40 years.

Information as to the times and places at which examinations will be held, and the steps necessary to secure admission, may be obtained only from the United States Civil Service Commission, Washington, D. C.

FOREST OFFICERS' RIGHT TO ENTER LAND.

Officers of the Forest Service are prohibited from entering, or becoming interested in, directly or indirectly, any of the public lands of the United States, with this exception: A Forest officer may exercise his right under the town-site, homestead, or desert-land laws if he intends to make the claim his actual and permanent home. By so doing he may be compelled to choose between the claim and his position, should his duties make it impossible for him to comply with the residence and improvement requirements. Forest officers must not make application for the examination and listing of lands under the act of June 11, 1906, except where claim to the land was secured before the creation of the Forest, or before the applicant became a Forest officer.

INSURANCE.

To secure insurance at the lowest possible rate a mutual benefit association has been formed of employees of the Forest Service, the Geological Survey, and the Reclamation Service. This is solely to give employees health, accident, and life insurance at cost, and to prevent unnecessary burdens falling upon the associates of sick or disabled men. Information concerning membership in this association can be obtained from the supervisor.

SPECIAL STUDIES UPON NATIONAL FORESTS.

It is the active policy of the Forest Service to manage the National Forests upon a sound technical, as well as business, basis. Improvement in the standard of the technical management alone can secure steady and constant increase in returns without depleting the Forests. To this end careful investigation is essential. This includes special study of the habits and requirements of trees as a basis for the regulation of cutting of every kind. Special attention will be given to finding new uses for species at present valueless or little used, as well as for the trees already classed as commercial. Studies will be made of damage by fire and the best means of preventing it, and, in cooperation with the Bureau of Entomology and the Bureau of Plant Industry, of the prevention and control of insect ravages and tree diseases. In these and in many other ways the basis of knowledge necessary for the best forest work will be laid.

To sum up, the National Forests will be studied with reference to their best use for every purpose. These studies will not be limited to the present applications

for the use of the Forests. They will aim to develop wider uses, as well as to meet the present demand in the most satisfactory way.

It will be the duty of the supervisor to plan and direct such studies and investigations. If no members of the regular force are able to conduct the work, or all are engaged on duties from which they can not be spared, the matter should be reported to the Forester. If possible, an expert will be detailed temporarily to assist the supervisor.

PROTECTION OF CITY WATER SUPPLIES.

The Forest Service aims to improve and protect the forest cover of watersheds within National Forests on which adjacent cities and towns are dependent for their water supply. If the authorities of any town or city have determined by investigation that the decrease of the water supply is caused by overgrazing, excessive cutting, or fire, they are invited to apply to the Forest Service for assistance after consulting with the supervisor.

The supervisor on receipt of requests of this nature will immediately report to the Forester, in detail, and give definite recommendations as to steps the Forest Service should take to improve or protect the watershed by planting, trail building, extra fire patrol, closing to stock, or prohibiting the sale of timber.

CREATION OF NATIONAL MONUMENTS

Under the act approved June 8, 1906 (Appendix, p. 244), the President is authorized to declare, by public proclamation, historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest as National monuments.

Forest officers should report to the Forester the location and description of all objects of great scientific or historic interest, which they find upon National Forests, that may be set aside as National monuments.

CLAIMS.

IN GENERAL.

A valid claim is one initiated in good faith under some act of Congress and continued by use consistent with the character of the claim and necessary for its actual development. The Forest Service will endeavor to protect valid claims within National Forests and make the Forests contribute to their development.

The determination of questions involving title to unperfected valid claims to lands in National Forests are entirely within the jurisdiction of the Secretary of the Interior.

No claims can be initiated upon lands within National Forests, nor upon lands withdrawn for National Forests, except under the mining laws, and under the homestead law in accordance with the forest homestead act of June 11, 1906 (Appendix, p. 241), and the National Forest regulations thereunder.

REG. 3. Persons having valid claims under the public land laws or legal titles to lands within National Forests are free to occupy and enjoy their holdings, but must not interfere with the purposes for which the Forests are created, and must not cut timber or make use of National Forest land without a permit, except within the limits and for the actual development of their claims. Any other use is forbidden.

REG. 4. The supervisor may, within six months from the cancellation or abandonment of any claim to land in a National Forest, permit the claimant to remove his improvements, if such removal will not injure National Forest interests.

EXAMINATION OF CLAIMS.

Forest officers should examine and report upon all unpatented claims in National Forests, giving all essential facts which show the good or bad faith of the claimant. Adverse reports should be accompanied, whenever practicable, with written statements of witnesses, preferably in the form of affidavits, giving the facts to which they will testify under oath at a hearing on the claim.

In reporting upon claims, precedence should be given to cases in which the claimant settled unlawfully upon lands withdrawn for National Forest purposes and is making unlawful use of the lands claimed by him or is injuring National Forest interests.

PROCEDURE ON PROTESTED CLAIMS.

The General Land Office circular of August 1, 1905 (Appendix, p. 292), requires local land officers to furnish the forest supervisors with a copy of the notice of intention to make final proof. When notified by the local land office that a claimant has applied to make final proof, the supervisor should examine the claim, if not already examined, and report upon the proper form (654 or 655). Report on Form 654 or 655 should not be sent to the local land office, but the notice from the land office must be returned before the time fixed for taking final proof. If the Forest officer is aware of no objection to the claim his indorsement should be "No protest." If he knows that the claim should not pass to patent and has so reported to the Forester, he should return the notice to the local land office with the notation: "The Forest Service protests against

this claim; complete report sent to the Forester ——— day of ———, 190—.” If he does not know that the claim is valid, and has not reported adversely to the Forester, he should return the notice to the local land office with the indorsement, “The Forest Service protests against this claim and requests time to make further investigation.” In every case the Forest officer should date and sign the indorsement on the notice, using his title, and notify the Forester of his action. When final proof is taken, the supervisor should be present, if possible, to cross-examine the claimant and witnesses and submit testimony in rebuttal, which will be permitted without previous notice. If he can not attend the taking of final proof, he should, in all cases in which he doubts the validity of the entry or the compliance with law by the entryman, submit to the officer taking proof questions which he desires asked the claimants and their witnesses.

If the claim should not be passed to patent, whether he has so reported to the Forester or not, he should, instead of filing protest, file a complaint against the acceptance of final proof under the procedure for contesting claims.

No contest or protest against a claim can be considered by the General Land Office unless specific charges are filed within two years after the issuance of final certificate. (Sec. 7, act of March 3, 1891, 26 Stat., 1097.) Proceedings to annul patents must be instituted within six years from the date of patent. (Act of March 3, 1891.)

Under ordinary circumstances the supervisor's report upon the claim will be transmitted to the Forester and by him to the Commissioner of the General Land Office for appropriate action, and the supervisor will not initiate a contest against the claim. If, however, National Forest interests require immediate action, the supervisor should initiate a contest before the local land office in accordance with the circular of the General Land Office dated June 26, 1907 (Appendix, p. 291). Claims against which action may be taken by examination, and report to the Forester, or by complaint, include all assertions of right or title to lands in National Forests, whether by the filing of an


application, entry, location, or other writing in the local land office, county records, or elsewhere, or by posting notice on the ground, or by occupancy or otherwise.

The complaint to be filed by the supervisor in the local land office need not be under oath, but it should be verified by the Forest officer, who should sign it and give his address. It should describe the claim by section, township, and range, if surveyed; or by reference to fixed objects, if unsurveyed. If a filing has been made for the claim, the number of the filing or entry and the name and address of the claimant should be given. The complaint should state facts sufficient to warrant the rejection of the claim.

Upon the filing of the complaint the local land officers will assume charge of the case. They will issue all notices and direct all proceedings. The General Land Office circulars of September 30 and November 25, 1907 (36 L. D., 112, 178), will govern the proceedings taken in such cases.

Forest officers are not authorized to incur any expense for the attendance or mileage of witnesses or for witness fees on depositions or on hearings before the local land officers. All such expenses must be paid from the land-office funds. Forest officers should, however, upon request, assist in serving notices and subpoenas issued by the local land officers in any proceedings taken under this circular. In such cases subpoenas are not required to be served upon Forest officers, who will attend hearings, if possible, upon notice given by the local land officers. If it is not absolutely necessary for them to attend the hearings, or when it is imperative that they remain upon their Forest, the supervisors should request the Chief of the Field Division of the General Land Office to take the depositions of the Forest officers for use at the hearings.

When a complaint is filed, a copy should immediately be transmitted to the Forester, with a report upon the claim on Form 175, 654, 655, or 320 and statements of the evidence to be given by each witness for the Government. These statements should, if possible, be in the form of affidavits, signed and



sworn to before a Forest officer by the witnesses. The supervisor must retain copies of all such papers.

The affidavits or statements should give every material fact affecting the validity of the claim. The place where the affidavit is taken and the name and the address of the affiant should be given, and the affidavit should be signed by the officer before whom it is taken.

Forest officers should endeavor to obtain competent and reliable persons to appear as witnesses in support of the charges in the complaint. They should, upon request, furnish the local land officers the names and addresses of such witnesses, so that subpoenas may be issued for their attendance at hearings.

The General Land Office circular of February 18, 1908 (Appendix, p. 296), instructs the chiefs of the Field Division of the General Land Office to confer with the supervisor before fixing the time and place for the hearing.

Under the law and the regulations of the General Land Office no witness can be compelled to appear either before the local land officers or any other officers outside of the county in which the subpoena may be served, and no mileage fees can be demanded or paid for any distance traveled by the witness outside of the county in which the hearing is held or in which his deposition is taken, nor can an attendance fee be allowed or paid a witness for the time occupied by him in going to and returning from the place at which the hearing is held or his deposition is taken. Supervisors should, when in conference with chiefs of field divisions respecting hearings to be held, endeavor in all cases to have the testimony of witness taken before an officer of the county where the land lies.

COURT ATTENDANCE.

If a Forest officer is subpoenaed to attend and testify as a witness for the United States in a case pending in the courts, he should present his claim for reimbursement to the clerk of the court and not charge his expenses to the Forest Service. If subpoenaed to appear and testify as a witness for any other


party, he must obey the subpoena, if he receives proper assurance that his fees and mileage will be paid.

HOMESTEAD CLAIMS.

Homestead claimants are required to live upon and to cultivate in good faith the land embraced in their claims. The Department of the Interior excuses temporary absences of bona fide claimants, when necessary to earn money for support or to improve the land, or because of sickness. (See also Appendix, p. 243.) The land embraced in the entry must be used for the home of the claimant to the exclusion of a home elsewhere. Personal visits to the land to keep alive the fiction of residence, the use of the land as a summer residence only, or a mere pretense of cultivation does not satisfy the law. Lands may not be appropriated and patented under the homestead laws if entrymen use them merely for grazing headquarters during a few weeks or months each year and maintain their homes elsewhere.

REG. 5. Squatters who settled on National Forest land before its withdrawal, and who are awaiting survey to make entry, have the same rights to occupy and enjoy their holdings as homestead entrymen, and may at their option await survey or apply for the examination of their lands under the act of June 11, 1906, with a view to opening them to homestead entry.

In reporting on homestead claims, especially when they are timbered, or when the claimant evidently desires the land for some other use than for a home and for cultivation, every fact relating to the claimant's occupancy of the land should be detailed, especially the number, dates, duration, and causes of the claimant's absence, and where his family resides. If necessary, an insert sheet may be used in Form 655.



FOREST HOMESTEAD ACT.

The act of June 11, 1906 (Appendix, p. 241), authorizes the Secretary of Agriculture, in his discretion, to examine or ascertain, upon application or otherwise, what lands, both surveyed and unsurveyed, in National Forests are chiefly valuable for agriculture and may be occupied for agricultural purposes without injury to the National Forests, if not needed for public purposes. The act authorizes the Secretary of Agriculture to file lists of such lands with the Secretary of the Interior, who will then declare the lands open to entry under the homestead law.

The act does not apply to certain counties in southern California. In parts of certain counties in South Dakota only land which was settled upon before January 1, 1906, can be opened under the act.

All applications for the listing of lands under the act of June 11, 1906, must be signed by the person who desires to make entry, and must be mailed to the Forester, Washington, D. C.

The person upon whose application the land is listed has the preference right of entry, unless there was a settler on the land prior to January 1, 1906, in which event the settler has the preference right.

Persons having preference rights under the act may file their entries at any time within sixty days after the filing of the list in the local land office. If they do not make entry within that time, the land will be subject to entry by the first qualified person to make application at the local land office.

All applications must give the name of the National Forest and describe the land by legal subdivisions, section, township, and range, if surveyed, and if not surveyed, by reference to natural objects, streams, or improvements, with sufficient accuracy to identify it.

Section 2 of the act gives, within National Forests only, an additional homestead right of entry upon lands chiefly valuable for agriculture, to settlers prior to January 1, 1906, who have already exercised or lost their homestead privilege, but who are otherwise competent to enter under the homestead laws. The general act of February 8, 1908 (Public—No. 18), provides that any person who, prior to February 8, 1908, made entry under the homestead laws, but for any cause has lost, forfeited, or abandoned his entry, shall be entitled to the benefits of the homestead law as though such former entry had not been made, except when the entry was canceled for fraud or was relinquished for a valuable consideration.

The fact that an applicant has settled upon land will not influence the decision with respect to its agricultural character. Settlers must not expect to include valuable timber land in their entries. Settlement made after January 1, 1906, and in advance of opening by the Secretary of the Interior, is not authorized by the act, will confer no rights, and will be trespass.

Entry under the act is within the jurisdiction of the Secretary of the Interior, who will determine preference rights of applicants.

Applicants who appear to have a preference right under the act of June 11, 1906, will be permitted to

occupy so much of the land applied for by them as, in the opinion of the forest supervisor, is chiefly valuable for agriculture. (See pp. 61 and 62.)

Reports upon lands applied for under the act should be accompanied by recommendations for the withdrawal of any necessary rights of way through the lands, in order that the withdrawals may be made before the lands are listed for entry. (See p. 41.)

DESERT-LAND CLAIMS.

Valid claims under the desert-land act (19 Stat., 377, and 26 Stat., 1095) within National Forests may be perfected in accordance with the terms of that act. The entryman must be a resident of the State in which the land is situated, and the entry must not embrace more than 320 acres, nor include timber or mineral land, but must be of lands which will not, without artificial irrigation, produce some agricultural crop. Final proof must be made within four years from the date of entry. On final proof, the entryman must show that he has an absolute right to sufficient water to permanently irrigate the land; that the system of ditches to conduct the water to and distribute it over the land is adequate for that purpose; that the land has actually been irrigated for a sufficient period of time to demonstrate the sufficiency of the water supply and the effectiveness of the system, and that at least one-eighth of the land has been cultivated. Actual tillage must as a rule be shown. Desert-land claimants are required to expend upon their claims at least \$3 per acre—\$1 per acre each year for three years—and must

file proof of such expenditures. Failure to file such proof is cause for cancellation of the entry.

TIMBER AND STONE CLAIMS.

Valid claims under the timber and stone act (20 Stat., 89, and 27 Stat., 348) within National Forests may be perfected under the terms of that act. Only one entry can be made by any person or association. Not more than 160 acres can be covered by any entry, and the land entered must be in one body.

A timber and stone entry is initiated by filing in the local land office an affidavit by the applicant that he has made no prior application under the act; that the land is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited and contains no mining or other improvements, except for ditch or canal purposes (if any exist), save such as were made by or belong to the applicant; that the land is nonmineral; that the application is not made on speculation, but in good faith to secure the land for the exclusive use and benefit of the applicant; that he has not, directly or indirectly, made any agreement or contract by which the title shall inure in whole or in part to the benefit of any other person.

The applicant must have been upon and examined each legal subdivision of the land covered by his entry, and the sworn statement must be made upon his personal knowledge, except in so far as the statute provides that the affidavit may be made on information and belief.

An applicant making false affidavit is guilty of perjury. He will be punished as provided by law for such offense, and all conveyances of the land, or of any right, title, or claim thereto are absolutely null and void as against the United States.

Forest officers will direct their examination of timber and stone claims to the truth of the allegations in the sworn statements.

MINING CLAIMS.

Mineral lands within National Forests may be freely prospected, located, developed, and patented in accordance with the mining laws and National Forest regulations. (Appendix, p. 216.)

Any recognized mineral substance, if found in sufficient quantity, will warrant entry under the mining laws—for example, building stone, china or fire clay, coal, limestone, oil, slate, etc., but not brick clay, sand, or gravel. (Appendix, p. 283.)

It is the policy of the Government to favor the development of mines of gold and silver and other metals, and every facility is afforded for that purpose; but it requires faithful compliance with the conditions stipulated. There must be a valid discovery of mineral and a sufficient exploration of the ground to show it beyond question. (Appendix pp. 281-284.)

When application for patent is made it must appear that the land contains enough mineral to warrant its disposal under the mining laws. The character of the land is the primary question in determining whether a mining claim is valid. If the applicant has had ample

time and opportunity to show by exploration and development whether valuable mineral deposits exist on the land, and has not done so, his location can not be held to be a valid mining claim. (Appendix, p. 281.)

Lands can not lawfully be located or title thereto legally acquired by patent under the mining laws for purposes or uses foreign to mining or the development of mineral. (Appendix, p. 284.)

The locator of a mining claim has a right to use sufficient timber to develop his claim. Timber, however, can not be cut from one claim to be used on another of the same group unless its use develops the claim from which it is cut, as well as the one where it is used. Timber from one group of mining claims can not be used to develop another noncontiguous and separate group of mining claims, although they are owned in common. A mining claimant has no right to cut and remove timber from his claim merely for sale or other commercial purpose.

In examining and reporting upon mining claims, Forest officers should give precedence to supposed invalid locations to which an active claim is being asserted, if the claim injures National Forest interests, or if the location was evidently made to secure control of the land for power purposes or other uses foreign to mining or the development of mineral. If a sufficient description or identification of each location can not otherwise be secured, the necessary information should be secured from the county records. Reports on valid mining locations need not be made until application for patent is filed. No reports are necessary on locations which have been abandoned or of which no use is being made.

When making an examination and report upon a mining claim, the Forest officer should observe the following provisions:

If active mining operations are being conducted on the claim and ore is being marketed, and the general outlook indicates a bona fide mine, a close examination will not be necessary. The Forest officer should, in such cases, report the facts generally, after going through the mine.

Where the validity of the discovery is doubtful, a more careful examination should be made. It is not necessary that the claim should be a paying mine. If valuable mineral has been found and the nature of its occurrence would justify working the ground, the discovery would be legal and valid.

To determine whether or not such a discovery has been made, the Forest officer should proceed as follows:

The general character of the country and the distance from paying mines should be stated. The entire claim should be examined for mineral.

The method of working the claim, as well as water power and transportation facilities, should be ascertained when possible.

In selecting the dirt for panning or ore for samples, the officer should rely upon his own judgment, and should consider, but not necessarily follow, the suggestion of the claimant. Special care should be taken to avoid salted samples.

Answers should be given, whenever possible, to each question on Form 654. If more space is needed, an additional sheet may be used and attached to the form. The answer to question 30 of the form should show whether the claim is used for any purpose other than mining and in what manner.

Reports should be made separately on each claim of a group, and when work on one claim is alleged to develop others, the extent and plan of development with relation to each should be shown.

Pans, hammers, picks, and crowbars are considered Forest equipment where needed under this order, and may be purchased.

If the field force on any Forest have not the necessary scientific and practical knowledge, mineral experts will be sent to make special examination, especially in cases which involve large areas of land and seriously jeopardize National Forest

interests or prevent the proper management and protection of the Forests.

Definite evidence by qualified witnesses is necessary to sustain charges against any claim.

Good judgment, care, and initiative on the part of the Forest officer to add to or vary, for proper reason to be explained by him, the nature of the report will add greatly to its value, and will assist and protect legitimate mining and the interests of the United States by preventing fraudulent appropriation of nonmineral land under the guise of compliance with the mineral land laws.

Lode claims.—The Forest officer should examine on the ground the dimensions of the outcropping of the vein or lode, and note the general character of the rock in which the deposit is contained.

He should search for discovery shafts, pits, or tunnels which the owner has made in an effort to find or disclose the vein and ore. He should make notes of the appearance and extent of the vein or ore exposed in the excavations, and should particularly note whether there is a distinct deposit of ore minerals, or whether, for example, there is merely iron pyrites distributed in slight amount throughout the rock of the claim.

He should measure the width of the vein between the rock walls or the thickness of the mineralized zone of rock exposed in the excavations, and should observe the dip—that is, the inclination downward from the horizontal—of the vein or mineralized rock, as well as the strike or course of the vein, noting the latter as NW., W., etc.

He should take a sample of each important grade of ore found in the excavation or in any vein on the claim, and observe the proportion of each kind of ore. He should then select a sample consisting of a number of pieces which, in his opinion, represents the average value of the vein or mineralized rock, being careful that these samples are actually taken from the vein and have not been brought from elsewhere. These samples need not weigh more than 3 pounds each, and they should be carefully wrapped and the wrapper labeled with

the name and location of the claim, the name and address of the claimant and of the officer examining the claim, and the date of the examination. Each package should be numbered, the number being also entered in the field notebook.

Notes should be made at once, and the samples should be referred to in the notes by number, description, color, and name, if known, of the rock containing the mineral. This will assist the officer in making his report.

The samples of ore when wrapped, and the package when labeled, should be stored, if possible, under lock and key.

Immediately upon being notified that a hearing has been ordered upon the claim by the Commissioner of the General Land Office, the supervisor should send the sample by express, charges prepaid, to the assayer of the mint at Denver, Colo., Deadwood, S. Dak., Carson City, Nev., or Seattle, Wash., whichever is most accessible, or to such other address as may be supplied hereafter. The charge for expressage, supported by the proper subvoucher, should be submitted in the supervisor's next expense account. The supervisor should notify the assayer of the shipment, give description of the sample used upon the label, request him to make the assay and give an assay certificate for the use of the Forest Service, and inform him, if possible, on what date the certificate will be used.

Placer claims.—The Forest officer should search for the discovery shaft, pit, or tunnel, pan some of the dirt, and record the results. Several pannings should be made in each excavation. His report should verify or dispute the nature of the deposit claimed.

MILL SITES.

In examining and reporting upon mill sites, Forest officers should keep in mind the following essentials of the law: Mill-site claims must not embrace more than 5 acres, and must be nonmineral and noncontiguous to a vein or lode, and must be used or occupied by the proprietor of such vein or lode for mining or milling purposes. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site.

TOWN SITES.

Lands in National Forests embraced in valid town-site settlements made before the creation of the Forest may, unless abandoned, be entered and patented under the town-site laws, without regard to the period which has elapsed after their settlement or after the establishment of the Forest, and without any necessity to eliminate the town-site area from the Forest.

Where it is desired to originate and establish a town site on lands within a National Forest, if a petition addressed to the Forester and an investigation made under his direction show that it is necessary and advisable to use such lands for town-site purposes, an Executive order to exclude the land may be issued, in which case provision will be made for its entry under the town-site laws and the regulations of the Department of the Interior.

STATE LANDS.

In general, grants to States and Territories for school purposes apply to sections 16 and 36 (nonmineral), if these sections were identified by survey before they were withdrawn for National Forest purposes. If the withdrawal precedes such identification, the State or Territory loses its right to these sections, and may select unreserved nonmineral lands in lieu of them. (Appendix, p. 278.) In the States of North Dakota, South Dakota, Montana, Washington, Idaho, and Wyoming, however, nonmineral sections 16 and 36 (and in Utah 2, 16, 32, and 36) belong to the State whenever they are identified by survey, notwithstanding their

prior withdrawal for National Forest purposes. (Appendix, p. 279.)

All States and Territories alike may make indemnity selection of unreserved public lands in lieu of school sections included within a National Forest, whether the title of the State has or has not been perfected by the survey of the school sections. (Appendix, p. 278.)

The removal of timber from unsurveyed lands within a National Forest without permit is trespass, and will be promptly reported in all cases, notwithstanding the fact that after survey such lands may turn out to be State or railroad sections.

RAILROAD LANDS.

A railroad does not acquire title to nor the right to use, lease, or sell land within the primary limits of its grant before Government survey (Appendix, p. 284), nor within its indemnity limits before Government survey and approval of selection. When the plats and field notes of survey show land in National Forests to be mineral in character, use, lease, or sale by a railroad will not be allowed, unless its selection of such land has been approved by the Department of the Interior.

ADMINISTRATIVE SITES.

Public lands within National Forests, and, where necessary, outside them, may be withdrawn from all forms of entry, for administrative uses.

Lands needed for supervisors' and rangers' headquarters, *gardens, or pastures*, for planting stations, reser-

voir sites, rights of way, or other administrative uses, should be selected, so far as possible, from nonmineral, unclaimed lands, and will be specially reserved from any form of location or entry. Supervisors should recommend sufficient reservations to meet the future as well as the present needs of the Service. The act of August 30, 1890 (Appendix, p. 223), reserved rights of way for ditches and canals constructed by authority of the United States over all lands to be entered thereafter under any of the laws of the United States.

If it becomes necessary to recommend the reservation of land probably valuable for mining purposes or embraced in an invalid claim, a special report should accompany the recommendation, showing the necessity for reservation and the character of the claim.

No site should be selected which is in whole or in part actually occupied or used in good faith for agricultural or mining purposes or for a home, whether the claim is legally valid or not, unless no other suitable tract is available for the purpose in view. If such a tract is selected because no other tract is suitable, that fact should be stated and explained in detail, and a report on the claim, on the proper form, should accompany the recommendation for withdrawal. All possible consideration should be shown to such occupants and users, and for this purpose full report should be made of all facts as to the occupancy; the kind, condition, and value of the improvements, and the good faith of the claimant. The Forester will carefully consider the validity of the claim, and, even if it is technically invalid, the propriety of paying for the improvements and securing a relinquishment, or of confining the site to the unimproved portion of the claim. If there are no claims on the sites recommended this fact should be stated. Conflicts with homestead applications under the act of June 11, 1906, should be avoided if possible. When they can not be avoided they should be dealt with in the spirit of the above instructions.

Examiners of lands applied for under the act of June 11, 1906, are reminded that rights for logging roads and other uses necessary for the efficient administration of the Forests may be withdrawn from all forms of entry in the same manner as administrative sites are withdrawn. The withdrawal would not cover the entire fee, but merely an easement to occupy the land for a road or other specific administrative use, leaving the fee open to appropriation. After the withdrawal, the land over which the right of way passes may be listed under the act of June 11 as one contiguous tract. It is essential that the withdrawal should precede the listing. The examining officer should give the course and distance of the road with accuracy, and should furnish with his recommendation for withdrawal a correct plat and field notes, using Forms 271 and 220.

Supervisors should make actual diversions of water needed for administrative use. After each diversion is made a record of it should be prepared by the supervisor.

The record should give the name of the stream, the date on which the diversion was made, the method of diversion, the use to which the water is put, the description of the place of diversion, the subdivision of land if surveyed, and if not, the description of the land by reference to natural objects, and the amount taken, in cubic feet per second or miner's inches. This record should be prepared in duplicate, and both original and duplicate should be dated and signed by the Forest officer making the diversion, and witnessed by any persons present or assisting him. Both should be approved by the supervisor, and the original forwarded to the Forester, accompanied by a plat on tracing linen illustrating the fact given in the statement. A copy of the plat will be retained by the supervisor.

USES.

JURISDICTION OF THE DEPARTMENT OF AGRICULTURE.

The Secretary of Agriculture has entire jurisdiction over National Forests, except in matters of surveying

and title. He can not convey any kind or degree of title to the land itself. He has authority to grant permits for the occupancy of lands and the use of resources of National Forests.


All applications for permits should be filed with the supervisors. They may be granted under the provisions of the act of June 4, 1897, which authorizes the Secretary of Agriculture to regulate the occupancy and use of National Forests (Appendix, p. 214), or under the act of February 15, 1901 (Appendix, p. 236), which authorizes him to permit the use of rights of way in National Forests.

JURISDICTION OF THE DEPARTMENT OF THE INTERIOR.

The Secretary of the Interior has entire jurisdiction in matters affecting the passage of title to lands in National Forests. (Appendix, p. 218.) Therefore he alone has authority to approve maps of location filed under the several laws which grant rights of way amounting to easements affecting the title to the lands.

PERMITS.

REG. 6. Permits are necessary for all occupancy, uses, operations, or enterprises of any kind within National Forests, whether begun before or after the National Forest was established, except: (a) Upon patented lands; (b) upon valid claims for purposes necessary to their actual development and consistent with their character; (c) upon rights of way amounting to easements for the purposes named in the grants; (d) prospecting for minerals,



transient camping, hunting, fishing, and surveying for lawful projects.

REG. 7. Permits for the use of the National Forests, unless otherwise specifically fixed by regulation, may be granted by the Forester for any term consistent with National Forest interests. The Forester may also make a reasonable charge for any permit, right, or use.

Preference in the use of National Forest lands and resources will be given to local residents.

REG. 8. Permits are not assignable, and abandonment in favor of another necessitates new application and permit. In case of abandonment and issuance of new permit, the original permittee may sell his improvements to the new permittee, and any payments made by him may apply on the new permit, in the discretion of the Forester.

REG. 9. Occupancy under permit secures no right or claim against the United States, either to the land or to any improvements upon it, beyond the uses conferred by the permit. Improvements made by the permittee, except fences, may not be removed except with the written consent of the supervisor.

SPECIAL USES.

All uses of National Forest lands and resources, except those which relate to timber and grazing, are known as "special uses."

The following are some of the purposes for which special-use permits are issued: Residences, farms, pastures, drift fences, corrals, apiaries, dairies, schools, churches, roads, trails, telephone and telegraph lines, stores, mills, factories, hotels, stage stations, sanitari-

ums, camps, summer resorts, wharves, miners' and prospectors' cabins, windmills, dipping vats, tanks, dams, reservoirs, water conduits of all kinds, power houses, power transmission lines, aerial tramways and cable conveyors, railroads, tramroads, and the purchase of sand, stone, clay, gravel, hay, and other National Forest products except timber.

REG. 10. The Forester and such officers as he may designate may issue, extend, or renew permits for special uses within National Forests, with such conditions as to area, time, and requirements as they may deem best, and they may make reasonable charges for such permits. The Forester alone may revoke special-use permits.

Forest supervisors may issue permits for all special uses except the following, which can be issued only by the Forester:

(a) Commercial power plants, consisting of dams, reservoirs, water conduits of any kind, power houses, and power transmission lines.

(b) Any uses involving the cutting or destroying of more timber upon the land to be occupied or used under the permit than the supervisor is authorized to sell.

(c) Sawmills with a capacity of more than 20,000 feet per day.

(d) Examination of ruins, excavations of archeological sites, and the gathering of objects of antiquity. (See Appendix, p. 244.)

PROCEDURE IN SPECIAL-USE PERMITS.

Except in the case of commercial power plants (Reg. 16), applications for special-use permits need not be in any particular form, but may be made either orally or by letter, as most convenient. When the supervisor receives the application, he should prepare a card and folder. Every action and payment in each case will be noted on the card. The supervisor will

retain copies of all reports, form letters, and other papers, so that at all stages of each transaction his record will be complete.

Supervisors' permits.—If the permit sought is one which may be issued by the supervisor, he will prepare a proper permit on Form 832, making four copies and stamping them "Original," "Duplicate," "Supervisor's copy," and "Ranger's copy." The supervisor will at once approve all four copies and send the duplicate to the permittee, the original to the Forester, and the ranger's copy to the ranger. When a charge is made for the permit, Form 946 will be used in sending the duplicate to the permittee, and a properly prepared letter of transmittal (Form 861) should be inclosed for use by the permittee in making the first payment. If a timber-settlement payment is required, a separate form (861) must be used. When no charge is made for the permit, it may be sent to the permittee without a letter.

When supervisors reject special-use applications, they will at once inform the Forester by letter, giving the reasons for rejection and inclosing the application, if a written one was received.

General instructions and suggestions will be issued by the Forester from time to time as a guide for the preparation of supervisors' permits.

Forester's permits.—If the permit sought is one that can not be issued by the supervisor, the application should be forwarded to the Forester for action, accompanied by a complete report on Form 964. The Forester will prepare and approve the permit and send the duplicate, the supervisor's copy, and the ranger's copy to the supervisor, who will send the duplicate to the permittee and the ranger's copy to the ranger. If a charge is made for the permit, the Forester will send the supervisor an appropriate letter of transmittal, to be signed by him and used in sending the permit to the permittee.

Permits for commercial power plants will be in the form of agreements for execution by the applicants, and will be prepared by the Forester and sent to the supervisor with appropriate instructions in each case.

MARKING SPECIAL-USE BOUNDARIES.

Whenever the land to be occupied under a special-use permit will not be inclosed, or is not a legal subdivision, the Forest officer in charge should, in order to avoid disputes, mark the boundaries by blazing or suitable monuments.

LANDS WITHDRAWN FOR ADMINISTRATIVE PURPOSES.

Land withdrawn or to be withdrawn for administrative purposes may be used under special-use permits, as any other National Forest lands, so long as the special use does not prevent or interfere with the administrative use. Land to be used for ranger stations may be occupied under special-use permits until such time as the Forest Service may need it, and the special use may continue jointly with the administrative use if that is found to be practicable. When a special-use permit is issued for land which the supervisor knows will later be needed exclusively for administrative purposes, the permittee must be notified.

FREE PERMITS.

No charge is made for the following classes of special-use permits: Agricultural use by applicants having preference right under act of June 11, 1906 (pp. 41-43). cemeteries, churches, corrals, dipping vats where no toll is charged, drift fences, irrigation conduits and reservoirs, miners' and prospectors' cabins, miners' ditches, etc., used exclusively by actual miners for mining purposes, municipal water plants applied for by municipalities, roads and trails (which must be free public highways), schools, sawmills sawing timber obtained from

the National Forests, telephone lines (with free use and free connection by Forest Service).

PAYMENT FOR SPECIAL USES.

The charge for permits is based chiefly upon the value of that which is actually furnished to the permittee by the Forest Service, including advantageous location and other indirect benefits, and not directly upon the profits or the magnitude of the business which is to be carried on. Applicants should not send any payments to the Fiscal Agent until a form letter of transmittal is furnished by a Forest officer to accompany the remittance.

After the first payment for a special use has been made, the Forester will, one month before any subsequent payment falls due, send to the permittee, through the supervisor, a notice to make payment. This will be done by the Forester in both Forester's and supervisors' permits, if an annual charge is made.

A collection calendar record for all special-use permits, both Forester's and supervisors', is kept by the Forester. Therefore supervisors need not keep any record as to payments, except upon their regular special-use cards, and will call upon permittees for payments only by forwarding notices from the Forester. Supervisors' permits must always name the date upon which the first and subsequent annual payments become due. When preparing permits, the supervisors should, as a rule, insert the nearest subsequent first or fifteenth of the month as the date for the first payment.

CLOSING SPECIAL-USE TRANSACTIONS.

Although the Forester alone may revoke special-use permits (Reg. 10), the supervisors themselves should promptly close all special-use transactions which are terminated by abandonment

or any cause not requiring a specific revocation of the permit, and should notify the Forester of such action.

If an applicant does not execute and return an agreement within a reasonable time, the supervisor should make inquiry, and if he refuses to execute the papers, the supervisor should, if possible, secure possession of them, close the case, and notify the Forester. In the case of Forester's permits, the supervisor should return the unexecuted agreements to the Forester.

SPECULATIVE APPLICATIONS.

The policy of the Forest Service is to prevent applicants from securing and holding valuable permits as speculative ventures, awaiting either the development of the country to make them more valuable or until financial assistance to carry them out can be secured. To avoid this speculative feature, applicants must, before a permit is issued, make all required payments and agree that any necessary construction work will commence within some definitely stated time; that the work will be completed within a certain period, and that beneficial use of the permit will be made for at least a certain stated period each year. Such time is to be reckoned from the date the permit is issued. The Forester and Forest officers will therefore, in recommending the time for commencement and completion of construction, take into consideration the physical conditions, such as climate, facilities for transportation, availability of laborers and materials, etc.

After any permit has been granted, the Forest officer should carefully note whether the time limitations for beginning and completing construction and enjoying the special uses are observed by the permittee. They

should promptly inform the Forester of any breach of the agreement in these particulars, and, unless permittees can show good reason for failure to comply with their agreements, the permits will be revoked.

EMERGENCY USES.

REG. 11. National Forest material may be taken without previous permit in serious emergencies for the protection of life or property, provided a permit for the material so used and for the special use involved is secured at the earliest opportunity.

SCHOOLS AND CHURCHES.

The use of tracts not larger than 2 acres for a school and 1 acre for a church is specifically provided for by law, subject to regulation by the Department and any other disposition of the land by the Government. (Appendix, p. 216.) Timber for the construction of church and school buildings may be secured under the free-use regulations. (Reg. 22.)

CULTIVATION OF AGRICULTURAL LAND.

The occupancy and cultivation of agricultural land in National Forests will be allowed, though no permit should cover more than 160 acres.

All persons, including trespassers, who settled before January 1, 1906, and have not abandoned their claims, may, if qualified, take advantage of the act of June 11, 1906, and in the meantime may occupy and enjoy their holdings without permit. Other applicants under the act of June 11, 1906, who appear to have the preference

right of entry under that act, may secure without charge a permit for the agricultural use of so much of the land applied for as, in the opinion of the supervisor, is chiefly valuable for agriculture, provided that the land is not adversely claimed under settlement made before its withdrawal, or after its withdrawal and before January 1, 1906. Applications for listing will not be affected by such permits.

The Forester will send to the supervisor of each Forest weekly lists of applications under the act of June 11, 1906, which show who appears to have the preference right of entry. Upon receipt of such lists the supervisor should notify the applicant appearing to have the preference right of entry, if the land is considered by the supervisor to be chiefly valuable for agriculture and is not adversely claimed under settlement as above defined, that upon request a special-use permit will be granted to him without charge to occupy and use the land for agricultural purposes. Upon receipt of such request, the supervisor should issue a free special-use permit to the applicant in the usual manner under the special-use regulations.

The following paragraph should be incorporated in each permit:

"In the examination of the land under the act of June 11, 1906, to determine its agricultural character, this permit shall not be considered; neither shall it be construed to give the permittee any preference right of entry under that act. This permit shall terminate when the land is opened to entry under that act; but if it is shown that the permittee has not the preference right of entry, the listing of the land for opening to entry will be deferred by the Secretary of Agriculture to protect growing crops."

ROADS AND TRAILS.

REG. 12. No permit is necessary for the construction of wagon roads by States or counties over National Forest

lands. Forest officers will confer and cooperate with the authorities in charge of the construction of such roads as to the disposal of refuse and other safeguards to prevent injury to the National Forests. With this exception, permits are necessary for the construction of all wagon roads over National Forest lands. Trails may be constructed over National Forest lands with the consent and under the supervision of a Forest officer. Permission to construct roads and trails over National Forest lands will not give any right to exclusive use, or to charge toll, or against future disposal of the land by the United States.

If an application for road or trail construction involves the cutting or destruction of more timber within the right of way than the supervisor is authorized to sell under the timber-sale regulations, it must be submitted to the Forester for approval; otherwise it may be granted by the supervisor.

When the construction of a road or trail is completed, the permit need not be revoked, but the supervisor will record the case as closed and notify the Forester.

REG. 13. The supervisor may, in his discretion, permit to any road district, county, person, or corporation the free use of timber, stone, sand, gravel, and other National Forest products for the construction, maintenance, or repair of roads or trails within National Forests, without prejudice to any free-use application they may make in the same year for material for other purposes, when such roads or trails are of sufficient public benefit to justify the free use.

The regular free-use permit form must be used in granting timber under this regulation. When the value of the timber applied for is greater than the supervisor is authorized to sell, the application will be sent to the Forester for approval, with full report and definite recommendations.

REG. 14. Applicants for wagon road or trail construction who are not entitled under Reg. 12 to free-use permit must pay for all merchantable timber cut or destroyed within the right of way, under timber-settlement regulations; or, if National Forest timber outside the right of way is required for construction or repair, under timber-sale regulations.

REG. 15. A county road established prior to the creation of a National Forest may be changed, widened, or repaired by the county authorities without permit, if the operations are within the right of way fixed for such roads by the State law.

Any attempt to abuse this right, such as the unnecessary use of material or the leaving of dangerous refuse, should be forbidden, and, if necessary, reported to the Forester for instructions.

TELEPHONE LINES ON COUNTY ROADS THROUGH NATIONAL FORESTS.

Special-use permits are necessary for all telephone lines along county roads through National Forest lands. Congress granted rights of way over the public land for highways. (U. S. Rev. Stat., sec. 2477.) By that grant the lands of the United States were subjected to the servitude of a highway for the benefit of the county. Telephone companies must, of course, secure the consent of the county authorities for the construction of these lines, but the county's title and interest is only that of a right of way, while the fee in the land remains in the owners of the lands adjoining the road.

A telephone line on a county road through National Forest lands can be operated lawfully only under *permission* from the Forest Service, notwithstanding any

permission from the county. It has been generally settled by the courts that telephone lines, when constructed along a highway, are an additional servitude, and that the owners of abutting land can require compensation for damages through the construction of such telephone lines. The State legislature can empower a county to impose such an additional servitude upon private lands, provided reasonable compensation is paid, but it can give no authority to impose it on the lands of the United States.

DAMS, RESERVOIRS, AND CONDUITS.

Before issuing any special-use permit for dams, reservoirs, and conduits on National Forest land, the supervisor must refer the application to the supervising engineer of the Reclamation Service in charge of the district concerned. The reports accompanying the Forester's copies of supervisors' permits for dams, reservoirs, and conduits must always show that the permits are approved by the supervising engineer of the Reclamation Service.

POWER PLANTS.

A commercial power plant is one for the generation of electrical energy for sale.

All supervisors' permits for noncommercial power plants must specifically provide that if any of the power developed under the permit is sold, the permit shall thereupon be subject to modification in the discretion of the Forester.

REG. 16. Applications for special-use permits for commercial power plants shall consist of maps in duplicate, on tracing linen, showing the project as surveyed, and

field notes in duplicate. Both maps and field notes must be verified by the surveyor's certificate under oath. If the use of water is involved, the applications must be accompanied by certified evidence, in duplicate, of water right or appropriation under the local laws. All such applications by corporations must be accompanied by duly certified copies of the companies' articles of incorporation, in duplicate, unless such evidence has already been filed with the Forester.

Supervisors will retain the duplicate copies of the papers required by this regulation, and will forward the original copies to the Forester.

REG. 17. If any person shall make a false surveyor's certificate under Reg. 16, the Forester will order that no map or field notes made by such person shall be received or filed.

REG. 18. If any applicant shall offer or file any map or field notes bearing a false surveyor's certificate or oath, knowing the same to be false, the Forester will order that no application shall be received from, and no sale, permit, or use shall be granted to such applicant while the order stands.

REG. 19. The following acts within National Forests are hereby forbidden:

(a) Squatting upon land within a Forest, or making settlement, except in accordance with the act of June 11, 1906. (Appendix, p. 241.)

(b) Building roads, trails, railways, or tramways, and constructing ditches, dams, canals, pipe lines, flumes, tunnels, or reservoirs without a permit, or in violation of the terms of a permit, except as otherwise allowed by law, and

except upon patented land, or upon a valid claim when necessary for the actual development of such claim consistent with the purposes for which it was initiated.

(c) Erecting or conducting telephone, telegraph, or power lines, hotels, stores, sawmills, power plants, or other structures, or manufacturing or business enterprises, or carrying on any kind of work, except as allowed by law and National Forest regulations, and except upon patented land or upon a valid claim for the actual development of such claim, consistent with the purposes for which it was initiated.

Appropriating, excavating, injuring, or destroying any historic or prehistoric ruin or monument, or any object of antiquity without a permit is prohibited by specific act of Congress. (Appendix, p. 244.)

GAME AND FISH PRESERVES.

The Forest Service will not issue any permit for game or fish preserves, or any permit which would result in preventing or restricting lawful hunting and fishing in National Forests.

RIGHTS OF WAY AMOUNTING TO EASEMENTS.

Maps of location, or applications under the several laws granting rights of way amounting to easements affecting the title to the lands, must be filed in the proper local land office of the Department of the Interior and not with any Forest officer. The laws granting rights of way are:

The act of March 3, 1875, as extended to National Forests by the act of March 3, 1899 (Appendix, pp. 231

and 233), granting rights of way to railroad companies for railroads. The act of March 3, 1891 (Appendix, pp. 233 and 234), granting rights of way across the public lands and National Forests for irrigation reservoirs and canals. Section 4 of the act of February 1, 1905 (Appendix, p. 218), granting rights of way for reservoirs, conduits, and water plants for municipal and mining purposes.

All maps for approval under these grants must be filed in the proper local land offices of the Department of the Interior.

REG. 20. Whenever a right of way under the jurisdiction of the Secretary of the Interior is located upon a National Forest, the Forester may, in his discretion, before making recommendation that it be approved, require the applicant to execute such stipulation and bond as he may deem necessary for the protection of National Forest interests. (Appendix, p. —.)

Such stipulations may include clearing right of way; disposal of refuse; payment, under timber settlement regulations, for all merchantable timber cut or destroyed; necessary precautions against fires by the use of oil as fuel, etc., and any other conditions needed to protect National Forest interests.

Particular attention is called to the fact that the laws above mentioned granting rights of way amounting to easements for railroads, irrigation reservoirs and canals, and reservoirs, canals, and water plants for mining and municipal purposes, do not in any way prevent or interfere with the securing of special-use permits for these purposes from the Forest Service, al-

though such permits do not, of course, convey any easement running with the land. The issuance of a special-use permit for any of the purposes named will not in any way prevent the permittee from filing a map of location for approval and record by the Secretary of the Interior under the right-of-way grant.

Whenever a supervisor learns of a proposed railroad, reservoir, or conduit in his Forest, for which an application has been or will be filed in the Department of the Interior, he need not await a formal request for a report, but as soon as he can secure a map of the project from the applicant, or otherwise learn of its location, he should submit his report on Form 964. In this way the Forest Service may often complete its part of the transaction and secure the necessary stipulation from the applicant before the application is formally referred to the Forester from the Department of the Interior.

ADMINISTRATIVE USE OF TIMBER.

REG. 21. The Forester may, with as little expense to the Government as possible, dispose of any timber upon the National Forests, by sale or otherwise, when such disposal is actually necessary to protect the Forest from ravages or destruction, or when the timber is necessary for use in improvements to the National Forests or in experiments conducted by the Forest Service.

Timber may be disposed of under this regulation to remove an actual menace from insects, disease, or other sources.

Where supervisors discover that the timber on National Forests is endangered, they should report to the Forester at once and suggest the readiest and most economical means of removing the danger. When insect infestation is discovered, specimens of all insects found in the trees, together with pieces of

bark and wood showing the galleries, should be sent to the Bureau of Entomology, U. S. Department of Agriculture, Washington, D. C., for identification.

FREE USE OF TIMBER AND STONE.

The law gives the Secretary of Agriculture authority to allow the free use of timber and stone on National Forests, under such regulations as he may prescribe, by "bona fide settlers, miners, residents, and prospectors for minerals, and for firewood, fencing, building, mining, prospecting, and other domestic purposes as may be needed by such persons for such purposes. (Appendix, pp. 216 and 221.)

REG. 22. Free-use permits may be granted to settlers, farmers, prospectors, or similar persons who may not reasonably be required to purchase, and who have not on their own lands or claims, or on lands controlled by them, a sufficient or practicably accessible supply of material suitable for the purposes named in the law. They may also be granted to school and road districts, churches, or cooperative organizations of settlers desiring to construct roads, ditches, reservoirs, or similar improvements for mutual or public benefit. Free use of material to be used in any business will be refused, as, for example, to sawmill proprietors, owners of large establishments or commercial enterprises, companies, and corporations. No trespasser is entitled to free use. Green saw timber will not be granted to any applicant who does not do his own logging, unless he is physically incapacitated. Exceptions, however, may be made in unusual cases in the judgment of the supervisor. On Forests where a limited supply requires it, the

free use of all saw timber may be refused. Necessary cutting of timber in surveying for lawful projects may be done without permit. Unnecessary cutting is trespass.

Whether an applicant is entitled to free use must be decided by the Forest officer who receives the application. In all cases not clearly covered by the letter of the regulations he should be guided by their spirit, especially as expressed by the term "those who may not reasonably be required to purchase," and by the distinction between personal and commercial use. A member of a corporation is not necessarily debarred from free use of fuel for his own home, although his ability to secure it from another source should be considered, especially if the Forest supply is limited and in demand by more needy applicants. Residents of towns and villages engaged in business or earning a livelihood are reasonably expected to purchase fuel and building material for town dwellings and other home structures. A settler may receive a liberal allowance for his own use, but he is not entitled to free material for sale or profit. There is no more reason for giving a hotel keeper or merchant timber solely to build or warm his hotel or store than for giving him a stock of goods, yet it need not be refused the proprietor of a small establishment when it will be used chiefly by himself and his family. Prospectors should be assisted to develop their properties, but owners of mines, who employ men on wages, should be required to buy. Free timber for use on alleged invalid claims may be granted for fuel only, pending the final determination of title to the claims.

The appraisement set upon free-use material should not be less than for any sales from the National Forest or the district from which the timber is to be taken. Every supervisor should issue to his force at the beginning of each fiscal year, July 1, a schedule of minimum rates for the free-use business. A copy should be sent to the Forester. The rates for the same class of material may be varied in different districts if the conditions are widely different. In general, posts should be valued at a given rate per post, and poles at a given rate per

linear foot. Cord wood should never be measured on the basis of the board foot. Dead timber should be valued at the same price as green in National Forests where the prices are equal in sales. The scaling or measuring of free-use material may be omitted in a few exceptional cases, when it incurs a much greater expense than the value of the material justifies. For example, if a bona fide settler, who has given proof of his desire to comply with the regulations of the Forest Service, asks for permission to obtain a small amount of free-use material, scaling, measuring, or counting may be omitted if it would require two or three days' riding on the part of the ranger in whose district the applicant lives.

REG. 23. No applicant will be given more than two free-use permits in one year, nor may the aggregate amount of material granted in the two permits exceed \$20 in value, except in cases of great or unusual need, or in the case of school districts, churches, and noncommercial cooperative organizations, when the supervisor may, in his discretion, extend the amount to any value not exceeding \$100. Free-use permits aggregating over \$100 in value may be granted only by the Forester. The duration of any permit will be fixed by the issuing officer, but all permits must terminate on or before June 30 of each year.

If the permittee fails to remove timber within the time stated in the permit, the Forest officer may grant the timber to another applicant. A permit will not be renewed to an applicant who has failed to use it, until the tract has been open to application by others for thirty days. In cases of unusual emergency, however, it may be extended by the supervisor, or, if for \$20 or less, by a ranger authorized to grant free use.

REG. 24. All Forest officers whom the supervisor may designate are authorized to grant free-use permits up to \$20 in value under these regulations, and to make such restrictions as to quality, kind, amount, location, and removal as they deem necessary to protect the National Forests. It is their duty to furnish cheerful assistance to applicants, to act promptly upon all applications, and, in general, to follow as liberal a policy in the matter of free use as the interests of the National Forests and the proper performance of their other work will allow.

No free-use material, except the small quantities actually needed by transients, may be taken without a permit. Free use can never be granted verbally.

The free-use business of the National Forests will be conducted mainly by the rangers, subject only to the general restrictions, instructions, and supervision outlined in this book, and the general plan and policy outlined by the supervisors.

The Forest officer issuing the permit should designate the timber to be cut in the simplest and most economical way practicable. Living timber should be marked. In the case of dead timber, an area may be blazed or defined by natural boundaries, and the class of trees to be taken specified.

When numerous applications for free use are expected, Forest officers should notify the public, in any convenient manner, that they will be at designated places on certain days prepared to transact free-use and other Forest business.

On many Forests it will be possible to reduce the work of handling free-use business by designating free-use areas, preferably in dead timber. These should be mapped and reported upon to the supervisor, who, if he approves the selection of the area, will authorize the ranger to mark or specify the timber which should be removed and to designate the boundaries.

After issuing a permit, the Forest officer may send the permittee to this area, thus avoiding the necessity of a visit to the timber with each applicant before cutting. Each applicant should clear up the brush from his own cutting and be responsible for his share of the area.

The Forest officer who issues the free-use permit will fill out Form 874—8 in triplicate. This may be done very conveniently by the use of carbon sheets. The applicant will sign the original and duplicate copies and the Forest officer, after approving them, will give the duplicate to the applicant, send the original to the supervisor, and retain the third copy, on which the signatures should be copied, for his files. The supervisor will use the original free-use permits in preparing his annual free-use statement. The permit will usually contain information sufficient to enable the supervisor to record it properly. Additional facts may be stated on Form 874—13.

When the permittee has secured the material desired, or, when the time allowed has expired, the officer in charge of the cutting should report to the supervisor on Form 874—14.

Although simple methods and the exercise of judgment are encouraged, there should be no tendency to underrate the importance of free-use business or the necessity of considering the good of the National Forest. The use of dead material should be encouraged in every possible way, and the assignment of green timber, when really necessary, must be where it can best be spared. Whenever practicable, dead and defective trees and inferior species should be taken. The cutting will thus improve the forest by taking out the less desirable trees. Special care must be taken to insure reproduction. Low stumps and full use of all trees cut must be required, as well as careful disposal of refuse. Officers in charge of cutting will be held responsible if unnecessary damage is done to young growth or standing timber or if the reproduction of the forest is not properly considered. The violation of any of the regulations governing free use, or of the terms of permit, constitutes trespass, and should be dealt with accordingly, but there should be no failure on the part of the Forest officer to make all points clear to the applicant before the permit is granted.

REG. 25. Free use may be granted for consumption outside the State in which the National Forest is located, except from the Black Hills National Forest in South Dakota.

REG. 26. All free-use material may be sawed, and all except green timber may be cut for the permittee by an agent, but the work so done must not be paid for by a share of the material. When a permittee is physically incapable of doing the work he may hire an agent to cut any green or dead timber, but he can not pay him by sharing the material.

REG. 27. The Forester is authorized to permit, under such conditions as he may deem necessary, the free use of earth, stone, and timber from the National Forests by the Reclamation Service in the construction of works under the National Irrigation Law. If the amount needed is not greater than that which the supervisor is authorized to sell, the permit may be approved by the supervisor. (Appendix, p. 223.)

REG. 28. No timber or other Forest products received under a free-use permit shall be sold until the permittee has made a regular application for the purchase of the material and has paid the purchase price.

TIMBER SETTLEMENT.

REG. 29. When a right of way or other special use is granted within a National Forest, the Forester or the supervisor who approves the permit may, in his discretion, without advertisement, fix the price and require payment for all timber cut or destroyed on National Forest land occupied or cleared in direct connection with the enjoyment of the *right of way* or special use.

Such transactions are called timber settlements. The Forest officer, when reporting upon the special use, must submit as soon as possible a separate report on Form 578 to cover the timber to be cut or destroyed. As in a timber sale, this report should recommend the stumpage rates and the best method of the disposal of refuse. It should also be stated whether the timber should be paid for on the basis of the estimate or of the actual scale. If payment is to be made upon the actual scale, scale reports should be submitted as in timber sales. If it is probable that cutting or destruction will not follow closely after the execution of the stipulation or permit, no stumpage rate should be fixed, but the stipulation or permit should state that the price will be that current in the Forest at the time of cutting or destruction.

TIMBER SALES.

All timber within the National Forests which can be cut safely, and for which there is actual need, is for sale. Applications to purchase are invited. Green timber may be sold except where its removal would make a second crop doubtful, reduce the timber supply below the point of safety, or injure the streams. The limited supply on some Forests prevents sales except for local use. All dead timber is for sale. (Appendix, p. 215.)

In all cases the first step for the prospective purchaser is to consult the nearest Forest officer. Inquiries or applications should never be sent to Washington directly.

The prime object of the National Forests is use. While the forest and its dependent interests must be made permanent and safe by preventing overcutting or injury to young growth, every reasonable effort will be made to satisfy legitimate demands.

Timber cut from National Forests may be handled *and shipped like any other timber, except that it will*

not be sold for shipment from regions where local consumption requires the entire supply, or is certain to do so in the future. The law prohibits export from South Dakota of any timber from the Black Hills National Forest, unless cut from dead or insect-infested trees. (Appendix, p. —.)

Anyone except a trespasser may purchase timber upon the National Forests. There is no limit but the capacity of the forest to the quantity which may be sold to one purchaser, except that monopoly to the disadvantage of other users of forest products will not be tolerated.

The time allowed for the removal of timber will depend upon the amount purchased and the amount which the purchaser is able to cut and remove each year, but will in no case exceed five years. It will always be sufficient for reasonably diligent work, but speculation by holding for rise in value will not be permitted.

The question whether the Government has or has not the right to sell timber from a mining or other valid land claim upon which final proof has not yet been made has never been settled in the courts. When a claimant is actually occupying and developing his claim, the timber should not be disposed of by the Forest Service. If, however, any claimant is not actively using his claim, Forest officers should not hesitate to allow, either under sale or "free use," the cutting and removal of dead, down, diseased, or insect-infested timber, especially when they consider such timber a danger to the Forest. If the danger is great, it should be reported to the Forester, even though the claim is actively used.

No attempt should be made to sell the sound standing green timber upon unperfected valid mining or other claims, whether they are being actively used or not.

The Forest Service has the undoubted right to sell any timber upon a land claim to the rightful claimant for any use whatever. A sale may be made, also, to a third party, with the consent of the rightful claimant, which should be in writing and filed with the other papers in the case.

CLASSES OF SALES.

REG. 30. All Forest officers whom the supervisor may designate are authorized to sell dead and green timber not exceeding \$50 in value. All supervisors are authorized to sell green and dead timber not exceeding \$100 in value. The Forester is authorized to make timber sales for larger amounts and to delegate this authority in special cases.

Under Reg. 30 sales fall into these three classes:

(A) *Rangers' sales*.—Not over \$50 in value of dead or living timber.

No delay is involved. The applicant should consult in person the nearest Forest officer, who will designate the timber, fix the terms of sale, and at once, upon assurance that the required payment has been forwarded to the Fiscal Agent, permit cutting and removal.

Formal application is made in triplicate and signed in duplicate by the purchaser, who sends the required payment to the Fiscal Agent, with a letter of transmittal given him by the Forest officer, who will at once fill out a copy, mark it "Duplicate," and forward it to the Forester through the supervisor (p. 150).

The duplicate should state, in addition to information given in the original, the kind of timber, whether green or dead, and

the approximate total amount of each where both are included, the amount of each species included in the sale, the price per thousand feet or other unit, the location of the cutting area, and the date on which the sale will expire. This information should always be made complete, since the Forester does not receive other information until the scale reports are forwarded. The Forest officer, upon being shown the receipt, if the payment is made by express or postal money order, or the draft itself, if by national-bank draft on New York, as assurance of payment, will approve both copies of the application and at once permit cutting and removal. He will at once forward the original to the supervisor, give the duplicate to the purchaser, and keep the triplicate for his files. He will forward scale reports on Form 820 as often as required by the supervisor. He will notify the supervisor, as directed on page 108, as soon as the timber is removed and all terms of the agreement are fulfilled, and recommend that the sale be closed. In sales of \$20 or less, or in which only dead timber is involved, a map and forest description need not be sent to the supervisor; otherwise they are required.

(B) *Supervisors' sales.*—Not over \$100 in value of dead or living timber, or such larger amounts as may be authorized by the Forester. Application may be made through any Forest officer, but the supervisor must approve the sale. If the value of the timber applied for is not over \$100, the only delay involved is the time required for the estimate and the report to the supervisor. If the latter approves the sale, the applicant forwards to the Fiscal Agent the payment required, and receives from the supervisor an approved copy of his application, which becomes his permit. He may then begin cutting.

When the value of the timber applied for is more than \$100, the sale must be advertised for at least thirty

days in one or more newspapers of general circulation in the State or Territory. The applicant will be required to forward \$50 to the Fiscal Agent to cover the cost of advertising. If the amount applied for is over \$100 in value, but still within the limit established by the Forester for sales by the supervisor, the latter prepares an advertisement and has it published. The advertisement should state the period during which bids will be received, the area from which timber is to be sold, its kind and estimated amount, the sum to be deposited with the Fiscal Agent at the time bids are sent to the supervisor, and that the right to reject any or all bids is reserved. Ordinarily the minimum stumpage price or prices should also be stated. On the expiration of the period of advertising, the supervisor will open the bids and award the sale.

The supervisor then prepares the contract and, if necessary, the bond, and sends them to the successful bidder for execution. When the contract and bond have been executed and the necessary deposits made with the Fiscal Agent, cutting may begin.

The sale will be awarded to the highest bidder unless such an award would create a monopoly, or unless the highest bidder is debarred from the use of the National Forest by his previous acts, or unless some unforeseen objection to the sale arises.

An examination on the ground is made by the supervisor or such Forest officer as may be designated by him. The results are recorded and are discussed with the applicant and form the basis of the formal application which is filled out in duplicate and is signed by him. A copy of the letter of transmittal accompanying the payment is at once forwarded to the For-

ester by the supervisor, after he has noted on it the additional information required, as in Class A sales. One copy of the approved application is retained by the supervisor and one is returned to the purchaser through the ranger concerned, who should have a copy for his own use. In sales of this kind where no living timber is involved, no map or forest description need be prepared, unless they are required by the supervisor or are necessary in the judgment of the Forest officer making the examination.

Since the law definitely limits the amount of timber which can be sold without advertisement to a stumpage value of not more than \$100, great care should be taken in making unadvertised Class B sales that the value of the timber does not exceed \$100. It is better to make the sale for a value a little under the \$100 limit to allow for a possible excess cutting. If by any accident the value of the timber actually cut exceeds \$100, it will be necessary to make a new sale for the excess. Otherwise any overcut should be reported as excess cutting on the original sale.

In sales involving more than \$100 worth of timber, but within the limit which each supervisor is authorized to sell, the supervisor should have the timber examined, as described on pages 80 to 90, and a map, estimate, and report submitted to him. If he thinks the timber can be sold with safety, he should then prepare, or have prepared, a formal application, and have it signed in duplicate by the applicant.

As soon as they are prepared, an extra copy of the application and contract should be sent to the ranger who has charge of the cutting.

Copies of all papers in an advertised Class B sale, including the application, notice of sale, report, estimate, contract, and bond, if required, should always be sent to the Forester as soon as the originals are prepared.

(C) *Forester's sales.*—Sales exceeding in value the amount to which the supervisor is authorized to sell.

Since the timber in all sales of this class exceeds \$100 in value, all must be advertised. Applications are submitted through the supervisor to the Forester. Upon the Forester's approval, and after a deposit of \$50 to cover cost of advertising has been received by the Fiscal Agent, a notice of sale is published in the local newspapers for a period of not less than thirty days. On the expiration of the period named in the advertisement, the bids are opened by the Forester and the sale is awarded. If the sale is awarded to another person, the applicant's deposit is returned. The contract, based on the application, is drawn up in the Washington office and sent to the supervisor to be executed by the purchaser. After the contract has been executed and the required deposits made, cutting may begin at once.

The steps are the same as in advertised Class B sales until the supervisor has received the formal application signed in duplicate by the applicant. If the supervisor decides to recommend the sale, he notifies the applicant to forward to the Fiscal Agent a deposit of \$50 to cover cost of advertising, and sends one copy of the application to the Forester with the report, estimate, and map. If he recommends the approval of the application without modification, he should initial in the lower left-hand corner of the first page. If he wishes to recommend any modification of the application or to give a more detailed explanation of any features of the examination or application, he should do so in a letter to be sent with the other papers. If the application is approved by the Forester subject to modification in any way, the supervisor should obtain the consent of the applicant before advertisement is made.

As soon as the advertisement begins, the supervisor should forward Form 935 to the Forester and notify all prospective

bidders that advertisement has begun, instructing them to forward their bids within the period specified in the notice of sale. He should furnish them with copies of Form 941 and bid envelopes. The original applicant should be informed that his application does not constitute a bid. If the necessary deposit has been made, the Forester awards the sale at the expiration of the period of advertisement. The contract is then prepared, and four copies are sent to the supervisor. The copies marked "Original" and "Duplicate" should be executed as soon as possible and returned to the Forester for approval. The third copy is for the supervisor and the fourth for the officer in charge of the sale. After approval by the Forester the duplicate is returned to the purchaser through the supervisor, who will enter on his copy the signatures and the dates of execution and approval. After the contract has been executed, the supervisor may allow cutting to begin without waiting final approval by the Forester. Every reasonable effort should be made by supervisors to secure the prompt execution of all contracts.

REG. 31. The supervisor may in his discretion require that a deposit be made with the Fiscal Agent before examination of or report on any application to purchase timber.

PAYMENTS AND DEPOSITS.

REG. 32. No timber shall be cut under any timber-sale contract unless it has been paid for. If in any sale the timber available does not reach the amount estimated and paid for, the necessary refund will be made, provided the purchaser has complied with the terms of the sale.

Deposits to cover cost of advertising and to accompany bids apply on the first payment if the sale is awarded to the depositor. Otherwise they will be refunded (p. 88).

REG. 33. In any sale the timber may be paid for in one or more payments, as agreed. In sales of \$100 or less the partial payments must not exceed three.

No payment should be sent to the Fiscal Agent without a form letter of transmittal, which will be furnished by the Forest officer.

If possible, in sales of \$100 or less, payment should be made in full in advance of cutting.

CONDITIONS OF SALE.

REG. 34. The period allowed for the removal of timber, which in no case will exceed five years, must be fixed in the agreement, and in sales in which a period of two or more years is allowed for the removal of the timber, the minimum amount to be removed each year must be specified, except in unusual cases. If at the expiration of the period named in the contract the purchaser has not removed all the timber, he forfeits all right to any timber not yet removed and to his purchase money; but if his failure to comply with the restriction was unavoidable, the Forester may, in his discretion, extend the limit to prevent hardship.

Supervisors may extend the time allowed for the cutting and removal of timber in sales of Class A and Class B. In any sale, unless it is otherwise specified in the contract, they may allow the postponement of brush piling when snow makes it impracticable. The supervisor may require the purchaser to give bond to comply with the terms of the application for such postponement. Extension of time in a Class C sale may be granted only by the Forester or such officers as he may designate.

Only in exceptional cases will a period of more than three years for the removal of timber be allowed.

A sale should be closed when the time allowed for cutting and removal has expired or when the purchaser has fulfilled all conditions of the contract. When a sale is ready for closing, the supervisor should stamp the final cutting report, "This sale is closed." No other notice of closure will be sent to Washington. All timber trespass, sawmill, timber settlement, and Forester's free-use cases will be closed by letter.

Extensions of time should be granted only when some unavoidable circumstance has delayed the purchaser's operations. When an extension of time is not granted, any timber which may have been cut but not removed will revert to the Forest Service. Extensions must never be given verbally, and in cases where a bond has been given, the consent of the sureties must be obtained.

When the postponement of brush piling is necessary, blank copies of the application and bond to be used will be furnished to the supervisor upon request by letter. The amount of the bond, if one is required, should be at least twice the estimated cost of brush piling. Before postponement of brush piling under a contract which contains no provisions for delay and on which bond was required, it will first be necessary to have the consent of the sureties.

REG. 35. Timber cut from any National Forest may be sold in any market anywhere; except that from the Black Hills National Forest in South Dakota dead and insect-infested timber only may be exported from that State. (Appendix, p. 221.)

REG. 36. In Class A and Class B sales bonds will be required only in exceptional cases. In Class C sales in which the value of timber involved is less than \$3,000, bonds will not be required unless definitely recommended by the supervisor. In all sales for amounts of \$3,000 or

more bonds will be required, except in special cases. The responsibility of the sureties must be established by the supervisor and reported upon in all bonds requiring the approval of the Forester. Supervisors may approve any bonds in sales of Class A and Class B.

In Class C sales to an incorporated company supervisors should require the officer who signs for the company to furnish the Forester a copy of or extract from the articles of incorporation or the by-laws or resolutions of the board of directors, authorizing the officer to execute the papers for the company. This copy or extract should be certified by the secretary of the company under the corporate seal.

When witnesses are required to the execution of any contract, if possible one should be a Forest officer and the other the notary public who takes the acknowledgment.

An officer of a company or corporation should not be allowed to apply for or purchase in his own name timber for the use of the company or corporation, but the application should be made in the name of the company.

REG. 37. No timber cut under any contract shall be removed from the place selected for scaling, measuring, or counting until it has been scaled, measured, or counted and stamped by the Forest officer.

No person, except a Forest officer, shall stamp any timber belonging to the Government upon a National Forest with the regulation marking ax or with any instrument having a similar design.

No live trees shall be cut under any contract until marked or otherwise designated by a Forest officer.

No trees within the limits of a National Forest, or upon any unpatented claim within a National Forest, shall be cut, girdled, or otherwise killed or destroyed, except under permit or where lowed by law.

REG. 38. The willful removal of any timber which has been unlawfully cut, either previously or subsequently to the creation of the National Forest, is prohibited.

The rule for measure of damages for timber cut in trespass is as follows: When the trespass is willful, the value of the timber where found; when unintentional, the stumpage value only. Damages for timber trespass may be collected from the original trespasser or from any subsequent purchaser.

Unlawfully cutting or removing, or wantonly destroying timber is prohibited by specific act of Congress. (Appendix, pp. 245, 247.)

Timber may be cut on a valid unpatented claim, but only to the extent necessary for its actual development consistent with the purposes for which it was initiated. (Appendix, p. 280.) Timber cut from one claim can not lawfully be used upon another, unless such use tends directly to develop the claim from which it is cut; and the burden of proof is upon the claimant to show this.

Cutting, chipping, chopping, or boxing any tree, even though on an unperfected claim, for the purpose of obtaining any pitch, turpentine, or other substance, or knowingly buying any pitch, turpentine, or other substance so obtained, is prohibited by specific act of Congress. (Appendix, p. 249.)

ADVERTISEMENTS AND BIDS.

When timber over \$100 in value is offered for sale, it must be advertised for a period of not less than thirty days in one or more newspapers of general circulation in the State or Territory. (Appendix, p. 215.)

Advertisements of sales must announce the time and place of filing bids, the location and approximate amount of timber, the amount to be deposited, and the name and address of the supervisor from whom full information can be obtained. Deposits will be credited on the purchase price of the timber if the sale is awarded to the depositor. If the sale is awarded to another, or if the application is not approved, the deposits will be refunded. If the applicant should fail to submit a bid, the amount previously deposited may, at the discretion of the Forester in Class C sales, and at the discretion of the supervisor in Class B sales, be retained to cover the cost of advertising. The right is reserved to reject any or all bids.

Upon definite recommendation by the supervisor, timber for which there is likely to be a demand and which may be cut with benefit to the forest, may be advertised in advance of application to purchase.

The last day for receiving bids must be at least thirty days from the first appearance of the advertisement, but need not be the date of its final appearance. If it is necessary to make a change in the advertisement, the last day for receiving bids should be the thirtieth day from the first appearance of the corrected advertisement. In order that large sales may be given publicity, supervisors should, during the period of advertising, post copies of Form 975 where they will attract the notice of the general public.

REG. 39. In sales above \$500, allotments, at the highest price offered, may be made to several bidders to prevent monopoly.

REG. 40. After any timber has been advertised, the Forester and such officers as he may designate may dispose of it

at private sale, without further advertisement, at prices not lower than those named in the advertisement:

- (a) If the timber has been advertised, but not sold;
- (b) If the purchaser fails to complete his contract.

Timber may also be disposed of at private sale if the law does not require that it be advertised.

(Appendix, p. 215.)

Timber may be sold at private sale when no bid satisfactory in price and conditions is received, or when it has been cut in trespass and satisfactory settlement can not be obtained.

ADVANCE CUTTING.

REG. 41. The Forester and such officers as he may designate may permit the cutting and removal of timber in advance of the award in an advertised sale, when the applicant has made a deposit covering the value of the timber to be cut and removed, and has agreed to pay for all timber actually cut under the privilege of advance cutting at the rate of the highest price bid, or if no bids are received, at the rate named in the advertisement. (Appendix, p. 215.)

The permit for advance cutting does not give the applicant the right to take all the timber at the rate of the highest bid, but merely to take such timber as he cuts before the completion of the advertisement. In no case will he be allowed to cut timber in excess of the amount covered by his deposit. When, however, it is evident that the applicant for advance cutting has submitted the only bid which will be received, the supervisor may allow advance cutting to continue after the expiration of advertisement and until the contract is presented for execution. Supervisors should inform applicants that the permit for advance cutting does not do away with the necessity of submitting

a bid. Advance cutting will not be allowed when it is evident that it will discourage competition.

Applications for advance cutting should be prepared in quadruplicate, and handled precisely as contracts. The officer in charge of the advance cutting should be supplied with a copy of the timber sale application.

EXAMINATION OF TIMBER APPLIED FOR.

Should the timber be cut?—Unless full information is already at hand, the first step upon receipt of an informal application is the examination of the timber applied for. The Forest officer must decide whether the timber is mature, and whether, if it is cut, a second growth will replace it, or if the land will become waste, and whether the water supply will be seriously endangered by the cutting, for the permanency and improvement of the forest must always be considered more important than immediate returns. The need for the timber should always be investigated with special reference to the future local demand and supply.

Applications for all the merchantable timber on a watershed should not be recommended for approval if a community is dependent upon it.

The future stand.—In any sale of green timber, good reproduction, and in mixed forests, reproduction of the more valuable kinds must be assured before a sale can be recommended. Whenever possible, a stand of young, thrifty trees should be left to form the basis of a second crop. In selecting kinds or sizes of trees which should be left, the present and the future value of the manufactured product, the rate of growth, power of reproduction, liability to windfall, resistance to fire, and present and prospective damage from insects or fungus disease should be borne in mind.

Method of cutting.—If the timber can be cut safely, then it must be determined whether all trees below an approximate diameter or only selected seed trees of valuable kinds should be left, or if seed trees are to be used, whether they should be left singly or in groups or strips.

If an approximate diameter limit is recommended, it should not be so low as to include thrifty, young trees, or rapidly growing trees in which the taper is excessive. The cutting limit should always be placed as low as possible for undesirable species. In some cases only a few trees can be cut safely, to avoid danger from windfall or injury to the watershed.

The cutting area.—Small sales should usually be made by amount. Large sales should include all the merchantable timber on a given area, which must be designated by natural boundaries or by blazed lines. In either case, all small, isolated bodies of timber, which if left would not be salable, should be included. Only in the most exceptional cases is it desirable to define the boundaries of the cutting area by legal subdivisions, except where it is bounded by patented lands or valid claims.

When the timber is on a given watershed or slope, the cutting area can be bounded by topographic features, such as ridges and streams. If only part of the timber on a slope or watershed is wanted, the cutting area should not include only the most desirable portion. When successive sales are made from the same compartment, the cutting areas should be contiguous.

If the cutting area includes claims of any sort, they should be carefully investigated and reported on. Timber on valid claims is always exempted from sale, unless the written consent of the claimant is obtained. Timber on invalid claims may be included in a sale if the examining officer is satisfied he can prove that the claim is invalid, which his report must show conclusively.

In determining the cutting area for any large sale, small areas which will probably be needed to supply local demands must be excluded by blazed lines.

Prices.—In all sales the stumpage prices should be based, not upon local custom, but upon the actual value of the timber. This must be determined by a careful study of the quality of the timber and the cost of logging. Timber on a gentle slope and within a mile of a drivable stream may be worth more than twice as much as less accessible timber. If dead timber has

the same market price and value as green, the stumpage rates should be the same. In most cases it will be possible to simplify the scaling and administration of the sale by recommending an average price for all species, and for both living and dead timber.

The Forest officer making the study should ascertain the cost of each step in logging and manufacture, the sale value of the product, and the prices of competing lumber from outside sources. In some sales it may be desirable to introduce a sliding scale of prices, providing for an annual increase in prices for timber cut after the first year of the contract. In others it may be best to make provision for readjustment of stumpage prices at a definite time upon a definite basis. The estimated profit to the purchaser at prices recommended should always be given.

Stumpage rates should not be reduced for any purchaser because his methods of manufacture are imperfect and utilization is incomplete. In recommending prices for timber to be sold to mining companies, power companies, and the like, for their own use, the cost of securing it from the nearest source outside the National Forest must be fully reported upon. The basis for stumpage prices in regions where timber from outside sources can not enter into competition must be very carefully considered.

No application will be approved by the Forester or by a supervisor unless the report of the examining officer shows definitely that the full market value of the timber will be received. There is no way to prevent favoritism and "graft" except to treat a timber sale as a business matter and get the full value of the timber sold.

Logging.—The method of logging to be used should be ascertained and its effect upon the forest considered. If it will cause serious damage to the reproduction or is likely to cause erosion, the examining officer should recommend measures to prevent this damage. He should always recommend the period to be allowed for the cutting and removal of the timber. This should never permit the holding of timber for a rise in value.

If the period recommended is two years or longer, the minimum amount of timber which the purchaser should be required to log each year should be determined. If it will be necessary to build logging camps or other buildings, flumes, or roads, their proposed location and their disposition when logging is completed should be ascertained. The value of these improvements to the Forest Service should be considered, as, for example, the use of buildings for rangers' quarters. If the improvements are not bought by the Forest Service the purchaser will be allowed a definite period after completion of the logging for their removal. If they are not removed within this period they will revert to the Forest Service.

Form of report.—The result of the examination should be forwarded to the supervisor in the form of a map, estimate, and description, and a report giving the information called for on Form 578 a. In all advertised sales recommendations for marking must accompany the report.

Map.—Every report upon timber recommended for advertisement must contain at least one map. This must show not only the proposed sale area, but also its location with reference to surrounding forest, topographic features, such as ridges, streams, and roads, proposed roads, camps, and mill sites, lands under patent, or claims, and surveyed lines, if any.

The map must include enough of the surrounding forest to show that the timber applied for may be removed without rendering the surrounding timber inaccessible and unsalable. Burns, barren or open land, forest types, and the limits of merchantable timber on slopes should be shown so far as they affect the desirability of allowing the sale. Within the area applied for the forest types should be shown, and the topography should be indicated in sufficient detail to demonstrate the ease or difficulty of logging the timber, and to show the natural boundaries of compartments or logging areas. In small sales one map will show all these data, so that compartment maps are unnecessary, the compartments being indicated by dotted lines. This map should be drawn to a scale of not less than 4 inches to the mile, and the Forest Atlas colors and symbols should be used.

Large tracts require location maps on a small scale, showing only the outline of the proposed cutting, the section lines or other location points, the private lands, if any, and dotted lines to represent the accompanying compartment maps on a larger scale. The latter may then be numerous and large enough to show necessary detail.

The proposed cutting area, as recommended by the examining officer and covered by his estimate and description, whether or not he agrees with the applicant, must always be clearly defined on the map; so must every part for which there is a separate estimate, description, or recommendation.

Estimate.—Always estimate the timber upon a definite cutting area recommended and shown on the map. An average for any large area of which this tract forms a part is insufficient. If uncertain conditions of sale or differences between the Forest officer and the applicant make it likely that the area recommended may be extended or reduced, then estimates for both the larger and the smaller area are required; otherwise, the cutting area should be fixed and estimated without reference to other lands. Where applications for adjoining timber are expected, and where the whole body could be most economically examined at one time, the work of estimating may with advantage include a large area, so that subsequent sales may be made without further examination. In such cases the estimate of the cutting area covered by the present application must be kept separate, and an estimate and report submitted for each area which comprises a natural logging operation. The same methods should be followed in estimating large bodies of timber which are to be sold at once, when estimates should be made of each compartment or body of timber. Whenever the forest on different compartments requires different treatment or different stumpage prices, the details of the estimate and report should show the reasons.

When there is more than one forest type within a cutting area or compartment, the estimate must be based upon separate estimates in each type. When the application does not include all the merchantable timber on the cutting area, the Forest

officer must submit an estimate of the merchantable timber which will be left after logging. This estimate should include seed trees, young timber which it is inadvisable to cut, and timber of sizes or species not desired by the applicant and which can properly be left.

The work of estimating should be done as carefully as conditions will allow. Only in the largest sales may less than 5 per cent of the total area be actually estimated, and wherever possible a much larger percentage should be taken. Estimates should be conservative, but overcuts should not ordinarily be more than 10 per cent of the estimated amount of the sale.

Reliability.—The reliability of an applicant and his reputation in the community should be ascertained. If he has previously made use of National Forest resources, his methods of business should be reported.

PREPARATION OF FORMAL APPLICATION.

If the Forest officer decides to recommend a sale, he will explain to the applicant all the requirements of the regulations and the special conditions for that particular sale. All points about the proposed cutting must be discussed fully with the applicant before the formal application is signed. The following points are given as guides for this discussion, but the Forest officer who prepares the application will be held responsible for the applicant's clear understanding of all the conditions of the application and of the manner agreed upon for conducting the sale.

To what approximate minimum diameter limit at a point 4½ feet from the ground will cutting be allowed for the different species?

Will seed trees be left; if so, of what species and how many per acre? Will they be evenly distributed or left in groups or strips?

To what diameter in the tops will trees be used?

What disposition will be made of brush and refuse?

To what maximum height will the purchaser be allowed to cut the stumps? Unless swell-buttred, hollow, badly burned out, or of great size, they should usually not be higher than 18 inches.

Will felling and cutting be done with saws?

During what months will cutting be allowed? Will it be allowed when deep snow is on the ground?

Will brush disposal be discontinued during the winter months?

What timber may be used for skidways, camps, or other improvements, and will it be paid for? What disposition will be made of camps and other improvements?

Where will camps, roads, dams, etc., be located?

Are the approximate minimum diameter limits to be varied to reduce the proportion of the undesirable species in the stand? Can these species be reduced in any other manner?


Will the cutting of desirable species only be allowed, or will the purchaser be required to remove all merchantable timber on the tract?

What special precautions will be taken to prevent damage to the young growth?

How and where will logs be skidded for scaling? If logs are not skidded, how will extra cost of scaling be paid? What allowance will be made for trimming lengths?

What claims are included in the sale area?

Will the timber on them be included in the sale, or will it be exempted?



What areas will be excluded from the sale to supply local needs?

What precautions are necessary to prevent forest fires, and how many employees of the purchaser will be available to assist Forest officers in fighting fires?

If a bond is required, what will be its amount?

Will the use of locomotives or other steam engines be permitted? If so, what precautions against fire will be taken?

What period will be allowed for the completion of the contract? Has the purchaser facilities for completing the logging within this period? Is the time longer than is actually necessary?

What are the stumpage rates? If the sale is for a long period, is provision made for the readjustment of the stumpage rates at a definite time? On what basis? Is provision to be made for a sliding scale of stumpage rates?

Will the purchaser be required to furnish any data of value to the Forest Service?

Where will scaling or measuring be done? How often?

What should be the basis for distinguishing between merchantable and unmerchantable timber?

May trees which are nearly dead be included in the sale to good advantage?

Should all wood sound enough for fuel be taken?

Should all dead trees above a given size be taken? What size?

Dead timber includes only trees which have no green branches, and in no case trees which are apparently

dying. Since deciduous trees, such as most hardwoods, have no foliage in winter, special care is needed to decide when they are dead. Trees dead at the top and green below, generally called spike-topped trees, are classed as living, and must never be cut under dead-timber permits.

If the applicant agrees to the conditions after they have been explained to him, a formal application is prepared according to the instructions given above for each class of sales. The quantity and location of timber described is based upon the Forest officer's examination, and must agree with the map, estimate, and report. All conditions and restrictions to govern the cutting must also be included.

MARKING.

When the sale of any green timber is assured, the supervisor will order that all trees which are to be cut shall be marked or otherwise unmistakably identified for cutting. This is imperative. Where only dead timber is purchased and no living timber will be cut, the Forest officer may, instead of marking or designating for cutting every tree, blaze and mark the boundary of the cutting area and instruct the purchaser in the manner of cutting. Merchantable dead trees, which the purchaser may wish to leave, should always be marked.

When the plan of marking is followed, standing timber must be marked "U. S." near the ground, so that every stump will show the mark. Where snow may conceal the marking from the cutters, each tree must also be marked at a point several feet from the ground.

Witness trees or any tree blazed to mark the line of any Government survey should never be marked or otherwise designated for cutting. (Appendix, p. 249.) Timber included in a sale area upon which mineral locations have been made *after* the

execution of the timber-sale contract should be marked for cutting in the same manner as the remainder of the timber.

Marking the timber for cutting is the most important part of any sale. If possible, a forest assistant should be assigned to the work. Timber should be marked when it can be done most economically. The work should not, however, be done too far in advance, and the cut-over area should be watched for mistakes. In no case should timber be marked outside the area designated in the contract. In a sale for a definite amount, only timber enough to yield that amount should be marked. The marking should be done thoroughly, and no groups of mature trees should be left on the area unless so isolated that the purchaser can not reasonably be required to log them.

Forest officers will not mark for cutting any witness trees or any tree blazed to mark the lines of a Government survey. The destruction of such trees by anyone is, under the act of June 10, 1906, a serious offense.

The following instructions for marketing are general, and can not all be applied in any specific case. Modified to meet local conditions, they should serve as a basis for marking in all sales and in free use.

All mature and over-mature trees should be marked, since they have practically finished growing. Unless needed for seed, all trees which show such defects as punk knots, spike tops, bad crooks, low forks, fire scars, cat faces, or frost cracks should be marked. The officer doing the marking should not be unreasonable in requiring purchasers to take defective trees, but as a general rule those which will yield one merchantable log should be marked.

An approximate diameter limit, if one is given in the contract, should be flexible. Thrifty, young, rapidly growing trees of desirable species should not be marked even if larger than the stated diameter. Defective trees of any usable size should be marked.

Where the danger of windfall is great, the removal of a few trees only should be allowed. This rule should also be followed where a dense forest cover is needed for the protection of a watershed or to prevent erosion. The probable harm from too

heavy marking on all steep slopes and in exposed places must be carefully considered.

Each tree left should have its crown free enough for vigorous growth. If usable, trees which have been badly crowded and have only a small, sickly crown should be marked.

When there are not enough young trees to form a good stand in the future, seed trees must be left. These should be thrifty and capable of bearing large quantities of seed at once. Occasionally it will be possible to secure seed from trees too misshapen or defective to be merchantable, but as a rule young trees which will yield good lumber in the future should be chosen. In mixed forests, all seed trees should be of the more valuable species.

Where partial reproduction is already present, fewer seed trees should be left than where there are no seedlings. If there is danger that fire will run over the area, enough trees should be left to seed the ground fully whether reproduction is present or not. To give good results, seed trees of most species should not be farther apart than twice their height, and should be evenly distributed over the area. Always leave a number of seed trees on the edge of openings, such as old burns, on the side from which the prevailing winds blow. Do not mark isolated thrifty trees of desirable species, unless it is evident that the species will not grow well on that particular situation.

Decide first which trees should be left, and then mark the trees to be removed. If in doubt whether a tree is needed for either seed or protection, leave it. If in doubt whether a defective tree should be classed as merchantable, mark it.

SUPERVISION.

The Forest officer in charge of a sale must require full compliance with all conditions of the contract. If any of the conditions are found to be unjust or unreasonable, he should report the facts, with his recommendations, in order that the written contract may be modified. No Forest officer has or will be given authority to allow the conditions of a contract to be

violated. Modifications may be approved in writing only by the officer approving the original contract, or by his successor or representative. So far as practicable, all branches of the logging operations must keep pace with one another. The handling of brush should never be allowed to fall behind the cutting and removal of timber, except when delay is allowed by the contract or by a supplemental agreement.

The best way to dispose of brush is not everywhere the same. It may often be found advisable to lop and scatter the tops to prevent erosion or to favor reproduction. Burning is necessary wherever there is danger of fire.

Frequently the most economical way to dispose of brush is to burn it as the cutting progresses, if weather conditions make it safe. Fires are started at convenient points, and as the brush is lopped off it is thrown on the nearest fire. When this is impracticable, all lops and debris, including large chips, made in hewing ties, should be piled at a safe distance from standing trees. The piles should be large and compact enough to kindle easily and burn cleanly. Do not allow brush to be piled on stumps, large tops, or unmerchantable logs. Do not allow piles to be made in groups of seedlings or young growth. Whenever possible, have the piles placed in openings, adjusting the size of the piles to the size of the openings.

SCALING.

All timber must be scaled, counted, or measured by a Forest officer before it is removed from the cutting area or from the places agreed on for the scaling, counting, or measuring. Rough averaging of diameters or lengths instead of scaling is not allowed. Log lengths should be accurately measured at frequent intervals to be sure that they do not overrun the extra inches allowed for trimming. In large sales, a record of the scale of each log must be kept on file in the office of the supervisor. It will be open to inspection by the purchaser at all times, but only in the presence of the supervisor or an inspector.

An approved copy of the weekly abstract of the log scale in large sales will be sent to the purchaser.

Logs should be skidded for scaling if the cost of scaling will be materially decreased by this requirement.

All timber will be scaled by the Scribner "Decimal C" log rule. This rule drops the units and gives the contents of a log to the nearest ten. When the total scale of a log is desired, all that is necessary is to add one cipher to the sum of the numbers read from the scale stick, excepting the contents of 6 and 8 foot logs, 6 and 7 inches in diameter. These are given as 0.5, which multiplied by 10 gives 5 feet as their actual contents.

Instructions to scalers.—Measure diameters inside the bark.

Round off the diameter to the nearest inch above or below the actual diameter.

Make proper deductions for defects in logs.

Make no deduction for curve or sweep in logs over 16 feet long.

Logs and other timber which are so defective as to be absolutely worthless should not be stamped.

Scale logs over 16 feet long as two or more logs, if possible in lengths not less than 12 feet.

The following table shows how the lengths should be divided when scaling logs 18 to 60 feet long. The number of inches to be added to the diameter at the small end of each log, to cover taper, is placed under each length.

For example, a 42-foot log 16 inches in diameter at the top would be scaled as—

One 12-foot log with a diameter of 16 inches.

One 14-foot log with a diameter of 17 inches.

One 16-foot log with a diameter of 19 inches.

Total length.		Log lengths.				Total length.		Log lengths.			
Feet.		Butt log.	Sec-ond log.	Third log.	Top log.	Feet.		Butt log.	Sec-ond log.	Third log.	Top log.
18		10'	.....	.....	8'	40		16'	12'	.....	12'
	Increase ..	1''	.....	.....	0''		Increase ..	3''	1''	.....	0''
20		10'	.....	.....	10'	42		16'	14'	.....	12'
	Increase ..	1''	.....	.....	0''		Increase ..	3''	1''	.....	0''
22		12'	.....	.....	10'	44		16'	16'	.....	12'
	Increase ..	1''	.....	.....	0''		Increase ..	3''	1''	.....	0''
24		14'	.....	.....	10'	46		16'	16'	.....	14'
	Increase ..	1''	.....	.....	0''		Increase ..	4''	2''	.....	0''
26		14'	.....	.....	12'	48		16'	16'	.....	16'
	Increase ..	1''	.....	.....	0''		Increase ..	4''	2''	.....	0''
28		14'	.....	.....	14'	50		14'	12'	12'	12'
	Increase ..	2''	.....	.....	0''		Increase ..	4''	3''	1''	0''
30		16'	.....	.....	14'	52		16'	12'	12'	12'
	Increase ..	2''	.....	.....	0''		Increase ..	4''	3''	1''	0''
32		16'	.....	.....	16'	54		16'	14'	12'	12'
	Increase ..	2''	.....	.....	0''		Increase ..	5''	3''	1''	0''
34		12'	12'	.....	10'	56		16'	16'	12'	12'
	Increase ..	3''	1''	.....	0''		Increase ..	5''	3''	1''	0''
36		12'	12'	.....	12'	58		16'	16'	14'	12'
	Increase ..	3''	1''	.....	0''		Increase ..	5''	3''	2''	0''
38		14'	12'	.....	12'	60		16'	16'	14'	14'
	Increase ..	3''	1''	.....	0''		Increase ..	5''	3''	2''	0''

This table is intended to be used simply as a guide. The allowances for taper should be varied to conform to the *actual* taper.

All saw timber should be scaled. Each log must be numbered with black crayon. The number should be the same as that opposite which the scale of the log is recorded in the scale book. The logs in all skidways must be counted, and the number in each checked with the entries in the scale book. Ties may be actually scaled, or they may be counted and the number multiplied by the average contents. Ordinarily, the following figures may be applied:

Eight-foot ties, standard face, $33\frac{1}{2}$ board feet each, or 30 ties to the thousand; 8-foot ties, second class, and 6-foot ties, standard face, 25 board feet each, or 40 ties to the thousand.

Shake and shingle-bolt material should be measured by the cord or by the thousand feet board measure, in accordance with the local custom.

Lagging may be measured by the cord or linear foot, or by the piece, or, where split lagging is used, by the board foot, each cubic foot counting as 12 board feet.

Poles, posts, piles, converter poles, telephone poles, and stulls may be scaled, sold by the linear foot, or sold by the piece, as circumstances warrant.

Unsound or crooked logs will be scaled down to the actual contents of merchantable material. All partially unsound but merchantable stuff must be scaled, whether removed or not. In ground-rotten timber, butts which, though unsound at heart, contain good lumber toward the outside, are frequently left in the woods. Where such material will pay for sawing, the Forest officer will scale it at what he considers its true value and include it in the amount purchased.

Logs which are not round will be scaled on the average diameter.

In the absence of a scale stick, or where the position of logs in the pile makes its use difficult, the diameters and lengths may be tallied and the contents figured from a scale table later.

When necessary and possible, the purchaser will be required to mark top ends of logs to avoid question when they are scaled in the pile.

The purchaser may be required to skid logs of different lengths in separate piles for convenience in scaling.

The Forest officer should always insist on having one end of piles or skidways even, so that ends of logs may be easily reached.

When scaled, each stick of sawlogs, timbers, ties, posts, poles, or piles must be stamped on at least one end. Cordwood must be stamped at both top and bottom of each pile and at least 12 pieces in each cord must be stamped.

Scribner Log Rule.

[Decimal "C."]

Diameter.	Length—feet.						Diameter.
	6	8	10	12	14	16	
<i>Inches.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Inches.</i>
6	0.5	0.5	1	1	1	2	6
7	0.5	1	1	2	2	3	7
8	1	1	2	2	2	3	8
9	1	2	3	3	3	4	9
10	2	3	3	3	4	6	10
11	2	3	4	4	5	7	11
12	3	4	5	6	7	8	12
13	4	5	6	7	8	10	13
14	4	6	7	9	10	11	14
15	5	7	9	11	12	14	15
16	6	8	10	12	14	16	16
17	7	9	12	14	16	18	17
18	8	11	13	16	19	21	18
19	9	12	15	18	21	24	19
20	11	14	17	21	24	28	20
21	12	15	19	23	27	30	21
22	13	17	21	25	29	33	22
23	14	19	23	28	33	38	23
24	15	21	25	30	35	40	24
25	17	23	29	34	40	46	25
26	19	25	31	37	44	50	26
27	21	27	34	41	48	55	27
28	22	29	36	44	51	58	28
29	23	31	38	46	53	61	29
30	25	33	41	49	57	66	30
31	27	36	44	53	62	71	31
32	28	37	46	55	64	74	32
33	29	39	49	59	69	78	33
34	30	40	50	60	70	80	34
35	33	44	55	66	77	88	35
36	35	46	58	69	81	92	36
37	39	51	64	77	90	103	37
38	40	54	67	80	93	107	38
39	42	56	70	84	98	112	39
40	45	60	75	90	105	120	40

Diameter.	Length—feet.						Diameter.
	6	8	10	12	14	16	
<i>Inches.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Bd.ft.</i>	<i>Inches.</i>
41	48	64	79	95	111	127	41
42	50	67	84	101	117	134	42
43	52	70	87	105	122	140	43
44	56	74	98	111	129	148	44
45	57	76	95	114	133	152	45
46	59	79	99	119	139	159	46
47	62	83	104	124	145	166	47
48	65	86	108	130	151	173	48
49	67	90	112	135	157	180	49
50	70	94	117	140	164	187	50
51	73	97	122	146	170	196	51
52	76	101	127	152	177	202	52
53	79	105	132	158	184	210	53
54	82	109	137	164	191	218	54
55	85	113	142	170	198	227	55
56	88	118	147	176	206	235	56
57	91	122	152	183	213	244	57
58	95	126	158	189	221	252	58
59	98	131	163	196	229	261	59
60	101	135	169	203	237	270	60
61	106	140	175	210	245	280	61
62	108	145	181	217	253	289	62
63	112	149	187	224	261	299	63
64	116	154	193	232	270	309	64
65	119	159	199	239	279	319	65
66	123	164	206	247	288	329	66
67	127	170	212	254	297	339	67
68	131	175	219	262	306	350	68
69	135	180	226	271	316	361	69
70	139	186	232	279	325	372	70
71	144	192	240	287	335	383	71
72	148	197	247	296	345	395	72
73	152	208	254	305	356	406	73
74	157	209	261	314	366	418	74
75	161	215	269	323	377	430	75

Diameter.	Length—feet.						Diameter.
	6	8	10	12	14	16	
<i>Inches.</i>	<i>Bd. ft.</i>	<i>Bd. ft.</i>	<i>Bd. ft.</i>	<i>Bd. ft.</i>	<i>Bd. ft.</i>	<i>Bd. ft.</i>	<i>Inches.</i>
76	166	221	277	332	387	443	76
77	171	228	285	341	398	455	77
78	176	234	293	351	410	468	78
79	180	240	301	361	421	481	79
80	185	247	309	371	432	494	80
81	190	254	317	381	444	508	81
82	196	261	326	391	456	521	82
83	201	268	335	401	468	535	83
84	206	275	343	412	481	549	84
85	210	281	351	421	491	561	85
86	215	287	359	431	508	575	86
87	221	295	368	442	516	589	87
88	226	301	377	452	527	603	88
89	231	308	385	462	539	616	89
90	236	315	398	472	551	629	90
91	241	322	402	483	563	644	91
92	246	329	411	493	575	657	92
93	251	335	419	503	587	671	93
94	257	343	428	514	600	685	94
95	262	350	437	525	612	700	95
96	268	357	446	536	625	715	96
97	273	364	455	546	637	728	97
98	278	371	464	557	650	743	98
99	284	379	473	568	663	757	99
100	289	386	482	579	675	772	100
101	295	393	492	590	688	787	101
102	301	401	502	602	702	803	102
103	307	409	512	614	716	819	103
104	313	417	522	626	730	835	104
105	319	425	532	638	744	851	105
106	325	433	542	650	758	867	106
107	331	442	553	663	773	884	107
108	337	450	563	675	788	900	108
109	344	459	573	688	803	917	109
110	350	467	583	700	817	933	110

Diameter.		Length—feet.						Diameter.	
		6	8	10	12	14	16		
Inches.	Bd. ft.	Bd. ft.	Bd. ft.	Bd. ft.	Bd. ft.	Bd. ft.	Bd. ft.	Inches.	
111	356	475	594	713	832	951		111	
112	362	483	604	725	846	967		112	
113	369	492	615	738	861	984		113	
114	375	501	626	751	876	1,001		114	
115	382	509	637	764	891	1,019		115	
116	389	519	648	778	908	1,087		116	
117	396	528	660	792	924	1,056		117	
118	403	537	672	806	940	1,075		118	
119	410	547	683	820	957	1,093		119	
120	417	556	695	834	973	1,112		120	

Scale reports.—When a cutting area is laid off and timber marked or otherwise designated to be cut, the Forest officer in charge of the work will notify the supervisor, and will also report the date when cutting actually begins. While cutting is in progress he will report to the supervisor, in all classes of sales, upon the form provided, the amount of timber cut and the condition of the tract.

Reports will cover periods of one, two, three, or four weeks, as may be required by the supervisor. The period will in every case end with Saturday. These reports may be omitted when the work is discontinued for a considerable period, as in winter.

In advertised sales, a summary of the scale, on Form 606, will be sent to the supervisor each week. This is in addition to the regular cutting report. The supervisor will send an approved copy of this summary to the purchaser. Cutting reports will be sent to the supervisor in duplicate. He will at once compare the value of the timber cut with the deposits, and, if necessary, will notify the purchaser to make further deposits. One copy of the scale report will be kept by the supervisor, the other, when approved, will be sent to the Forester. In Class A and unadvertised Class B sales only the final cutting reports need be sent to the Forester.

SPECIAL REGULATIONS FOR ALASKA.

All regulations for the use of the land and resources of the National Forests are applicable to the Forests in Alaska, except as modified by the following special regulations:

REG. 42. Trails on National Forest lands in Alaska may be constructed, extended, or repaired without permit. Wagon roads may be constructed, widened, extended, or repaired when needed, but permit must first be obtained from the supervisor. Permits will not give any right to the exclusive use, or to charge toll, or against future disposal of the land by the United States.

REG. 43. When a right of way or other special use is granted within a National Forest in Alaska, the supervisor may, without charge, allow the cutting of timber when this is necessary for the proper enjoyment of the special use. (See Reg. 29.)

REG. 44. Without permit, and free of charge, settlers, farmers, prospectors, fishermen, or similar persons residing within or adjacent to National Forests in Alaska are granted the privilege of taking green or dry timber from the Forests, and driftwood, afloat or on the beaches, for their own personal use, but not for sale; provided that the amount of material so taken shall not in any one year exceed 20,000 feet board measure, or 25 cords of wood; and provided further, that the persons enjoying this privilege will, on demand, forward to the supervisor a statement of the quantity of material so taken and a description of the location from which it was removed.

Timber cut from any National Forest in Alaska may be exported from the district and sold in any market anywhere, upon certification by the supervisor that the timber has been purchased and cut from a National Forest in Alaska.

Remittances in all cases must be sent to the Special Fiscal Agent, Ketchikan, Alaska, and checks or orders made payable to him.

GRAZING.

The Secretary of Agriculture has authority to permit, regulate, or prohibit grazing in the National Forests. Under his direction the Forest Service will allow the use of the forage crop as fully as the proper care and protection of the forests and the water supply permit. In new National Forests, where the live-stock industry is of special importance, full grazing privileges will be given at first, and if reduction in number is afterwards found necessary, stockmen will be given ample opportunity to adjust their business to the new conditions. Every effort will be made to assist the stock owners in a satisfactory distribution of stock on the range, in order to secure greater harmony among citizens, to reduce the waste of forage by tramping in unnecessary movement of stock, and to obtain a more permanent, judicious, and profitable use of the range.

The leading objects of the grazing regulations are:

The protection and conservative use of all National Forest land adapted for grazing.

The permanent good of the live-stock industry through proper care and improvement of the grazing lands.

The protection of the settler and home builder against unfair competition in the use of the range.

On the other hand, the Forest Service expects the full and earnest cooperation of the stock owners to carry out the regulations.

Permits will be issued to graze a certain number of live stock in each National Forest or part thereof, so long as no marked damage is done by such stock; but whenever a National Forest is being injured by too much stock or by the way it is being handled, the number will be reduced until the damage is stopped. In extreme cases, if necessary, all stock will be excluded.

Cattle and horses will usually be allowed to graze in all National Forests. Sheep and goats will be allowed to graze in National Forests or in parts thereof where special conditions warrant such grazing, but will be restricted to the areas and grazing periods fixed by the Forest officers.

Permits will usually be granted for one year, but where all controversies have been settled and only a proper number of stock are allowed, permits may be granted for periods of not more than five years.

ADVISORY BOARDS.

REG. 45. Whenever any live-stock association whose membership includes a majority of the owners of any class of live stock using a National Forest or portion thereof shall appoint a committee, an agreement on the part of which shall be binding upon the association, such committee, upon application to the Forester, may be recognized as an advisory board for the association, and shall

then be entitled to receive notice of proposed action and have an opportunity to be heard by the local Forest officer in reference to increase or decrease in the number of stock to be allowed for any year, the division of the range between different classes of stock or their owners, or the adoption of special rules to meet local conditions.

In setting any date of meeting with an advisory board the supervisor must give sufficient time to afford all members of the board an opportunity to attend, but in case they fail to attend either in person or by proxy, then the Forest officer will be relieved from all obligation to delay action.

Favorable consideration will be given the recommendations of an advisory board except when such recommendations are in conflict with the regulations or when there is good reason for their disapproval.

Live-stock associations desiring to take advantage of this regulation must file an application with the Forester, giving the names of all members of the association, the name of the National Forest or Forests in which its members are interested, and the names of the committeemen who are to act for the association. The advisory board must not consist of more than five members, and a majority of the board must constitute a quorum.

The application must be accompanied by a copy of the constitution and by-laws of the association and a statement that the action of the board will be binding upon the association. Upon the approval of such application by the Forester the association will be entitled to the recognition given under this regulation.

ALLOTMENT.

REG. 46. The Secretary of Agriculture will prescribe each year the number of stock to be allowed in each National Forest. The period during which grazing will be allowed and the grazing fees to be charged will be determined by the Forester. The supervisor will issue grazing permits in accordance with the instructions of the Forester. In the allotment of grazing permits the regular occupants of the range who own and reside upon improved ranch property in or near the National Forests will be given first consideration, but will be limited to a number which will not exclude regular occupants who reside or whose stock are wintered at a greater distance from the National Forests.

The grazing season for which permits are issued must not exceed the period authorized, and the total number of stock included in all permits issued must not exceed the number allowed by the Secretary's order.

The supervisor may allow stock to enter not more than fifteen days in advance of the date fixed for the beginning of a grazing period, or allow it to remain fifteen days after the expiration of the regular grazing period, when the needs of the people demand such action and the condition of the range warrants it.

Grazing permits will be issued only for periods which do not exceed those authorized by the Forester, and permission to enter before or remain after the regularly established dates will be given by a letter written to the applicant.

The period covered by year-long permits will begin at the opening of the regular summer grazing season and end on the day previous of the following year.

Applicants for grazing permits will be given preference in the following order:

(a) Small near-by owners.

Persons living in or close to the National Forest and owning improved ranches, whose stock regularly graze upon the National Forest range and who are dependent upon its use.

(b) All other regular occupants of the range.

The larger near-by owners of stock and improved ranch property and regular occupants of the range who do not own ranch property.

(c) Owners of transient stock.

The owners of stock which belong at a considerable distance from the National Forest and have not regularly occupied the range within its limits.

The number of stock an applicant is allowed to graze will be determined upon the merits of each case.

Priority in the occupancy and use of the range will be considered, and so far as is consistent with other equities the preference will be given to those who have continuously used the range for the longest period.

When necessary for the protection of class (a) owners, a limit in the number of each class of stock will be established, and renewals to all persons whose permits are within such limit will be without reduction in the number of stock.

The number of stock upon which exemption from reduction will be allowed, or to which new owners may be restricted, will be fixed in accordance with the local conditions in each National Forest, and will not exceed the number necessary to insure the maintenance of a home.

Persons owning a less number of stock than the established limit will be allowed to increase their permit number gradually, but may be restricted in the number added each year.

Whenever it is found necessary to reduce the number of stock allowed in any National Forest or portion thereof, the class (a) owners of stock are first provided for; the reduction will then be made on the number allowed the class (b) owners on the basis of a sliding scale suited to the conditions in each case. Class (c) stock will be excluded before the other classes are reduced.

The following is an example of the ordinary form of sliding scale:

The protective limit having been fixed at 1,200 head of sheep, all permits for not more than that number may be renewed without reduction.

All permits for less than 1,200 sheep may be increased 20 per cent, provided none go above 1,200 head.

All permits for from 1,200 to 2,400 sheep will be reduced 10 per cent, provided none go below 1,200 head.

All permits for from 2,400 to 4,800 sheep will be reduced 15 per cent, provided none go below the highest number allowed in the next lower grade, or 2,160 head.

All permits for more than 4,800 will be reduced 20 per cent, provided none go below the highest number allowed in the next lower grade, or 4,080 head.

Another form of sliding scale reduction which may be adopted is as follows:

All permits may be renewed without reduction on the first 1,200 head of sheep.

An increase of 20 per cent may be allowed on all permits for less than 1,200 head.

All permits will be reduced 20 per cent on the number in excess of 1,200 and up to 2,400 head.

All permits will be reduced 25 per cent on the number in excess of 2,400 and up to 4,800 head.

All permits will be reduced 30 per cent on the number in excess of 4,800 head.

The percentage reductions may be changed under either plan to fit the local conditions.

Under ordinary circumstances, on a fully occupied range, the number of stock allowed new owners should not be more than one-half the protective limit number, except when the entire outfit of a former user is purchased.

All old users of the National Forest should be allowed to increase without restriction to the number allowed new owners.

Persons in class (b) owning and residing upon improved ranches in or near the National Forests who are dependent upon the use of the National Forests for grazing stock which is fed during the winter upon the products of their lands need not be required to stand the full sliding-scale reduction.

All regular occupants of the range who do not own improved ranch property in or near a National Forest will be considered in class (b), but when reductions in number of stock are necessary, they will be reduced in greater proportion than the regular sliding scale.

When necessary to prevent range monopoly, a maximum limit in the number of stock allowed any one applicant will be established.

Persons who are legal citizens of the United States will be given a preference in the use of the National Forests, but persons who are not citizens may be allowed grazing permits provided they are bona fide residents and owners of improved ranch property either within or adjacent to a National Forest.

The owners of stock which belong in the State or Territory in which a National Forest is located will be given the preference, and resident owners will be considered first, but owners of stock coming from adjoining States or Territories will also be considered when circumstances warrant it.

DISTRICTS AND DIVISIONS.

REG. 47. National Forests in which grazing is allowed will be divided into districts approved by the Forester, who will determine the kind of stock to be grazed in each district. The supervisor will make such range divisions among applicants for the grazing permits as appear most-equitable and for the best interest of the National Forest and its users. When required for the protection of camping places, lakes and streams, roads and trails, etc., or of areas which are to be reforested, the supervisor may exclude stock from specified areas for such period of time as is necessary. Stock will be excluded from areas where they will destroy young growth or will prevent reproduction.

During each season the supervisor will go over the grazing grounds and examine the effect of grazing on the National Forest. He will make a full report to the Forester, with recommendations as to the number of stock to be allowed the following year, the division of the range into districts, and the areas to be opened or closed to grazing. In making estimates of the grazing capacity of lands, only stock six months old and over will be counted, but with the understanding that the natural increase will also be grazed.

PERMITS.

REG. 48. All persons must secure permits before grazing any stock in a National Forest, except for the few head in actual use by prospectors, campers, and travelers, or saddle, pack, and work animals actually used in caring for stock grazed under permit or in connection with timber sales or improvement work on the National For-

ests, and milch or work animals not exceeding a total of ten head owned and in use by bona fide settlers residing in or near a National Forest, which require no permit.

No stock may be grazed without a permit, except milch or work animals which are in actual use. A settler owning only ten head or less of stock which are neither milch nor work animals will be required to apply for permit and pay the grazing fee, while a settler owning any number of stock will be allowed to graze ten head of milch or work animals without permit and free of charge.

Rangers will report the approximate number of stock entitled to graze without permit in each district, in order that the supervisor may consider it in his recommendation for grazing. This class of stock will not be counted against the number which is allowed to graze under permit.

REG. 49. The grazing upon or driving across any National Forest of any live stock without a permit, except saddle, milch, or work animals exempted from permit by the preceding regulation, is prohibited under the penalty imposed by the act of June 4, 1897 (30 Stat., 11).

Persons who allow their stock to drift and graze on the National Forests without a permit must, under the law, be regarded as trespassers, and will lose all right to permits of any kind upon the National Forests.

In all cases of grazing trespass upon the National Forests the method of procedure should be as follows:

In civil cases.—The Forest officer upon discovering a grazing trespass should take immediate steps to protect the forest from injury. The owner of the stock should be ordered to remove it at once, or, if the situation is urgent, the Forest officer may

remove the stock in any reasonable way that does not injure it physically.

A distinction should be made between (a) unpermitted stock and (b) permitted stock.

(a) Forest officers may drive unpermitted stock from any portion of the Forest upon discovery of its presence, or they may allow the owner or herder a reasonable time to remove it; but if he refuses to go, the person in charge of the stock may be arrested and the stock removed from the Forest. (See procedure in criminal cases.)

(b) Permitted stock may be removed from any portion of the Forest not allotted to it, but the permit can not be canceled or the stock removed from the area allotted to it without authority from the Forester.

The Forest officer who discovers trespassing stock should, as soon as possible, prepare a report in duplicate on Form 856, to be submitted to the supervisor. This report should contain clear-cut, definite statements upon the following points: Date of trespass; actual or approximate number of stock grazed in trespass and method of determination; brands or earmarks of stock and recorded ownership of same; location of area trespassed upon by legal subdivisions, or a definite description by local landmarks; whether Forest boundaries were properly marked at point of trespass or not, and whether trespasser has ever been advised of the exact location of the Forest boundary; the names and addresses of all witnesses having knowledge of the facts, together with a brief synopsis of their testimony. All questions contained in the printed form should be answered.

This data should be complete, even though insert sheets must be used in the report. The Forest officer should then add his own recommendation relative to the terms and methods of settlement and action to be taken, and forward both copies of the report to the supervisor. No report of a grazing trespass should be forwarded to the Forester until the trespasser has had an opportunity to present his version of the facts to the supervisor. Propositions of settlement should not be prepared in full for the signature of the trespasser, but instead, the trespasser should

be furnished the blank form upon which he may set forth his side of the case.

Upon receipt of the report the supervisor will consider it carefully, and, if he thinks a good case has been presented against the trespasser, he will advise him by letter of the nature of the report, informing him that he will be allowed ten days from the receipt of the letter in which to state his version of the facts. After such statement has been made, or in case the alleged trespasser ignores the notice, after the ten days or a reasonable time has expired, the supervisor, if in his opinion a trespass has been committed, will determine the amount of injury which the Forest has sustained. If the trespass is innocent or unintentional the trespasser should be charged only the value of the grass and forage consumed or the herbage destroyed, based upon the regular grazing fee upon the number of head of stock involved; but in cases in which the trespass is willful the compensation due the Government should be much greater because of the effect of such a trespass. In cases of willful trespass the sum of \$50 per band and upward in any case of sheep trespass, or \$10 and upward in any case of cattle or horse trespass, is reasonable.

After having determined the compensation due to the Government in settlement of the trespass, a proposition of settlement (Form 208) should be presented to the trespasser, to be filled in and signed by him and forwarded to the Forester. A letter of transmittal (Form 861) should also be presented to him and a duplicate sent to the Forester. A report of the action taken in all cases, with definite recommendations, should be made to the Forester at once. A card record should be prepared and a properly marked folder containing the duplicate report and all other papers in the case should be placed in the files.

In criminal cases.—The Secretary of Agriculture has no power to dismiss criminal cases; and a proposition of settlement submitted with the understanding that, if accepted, criminal proceedings for the trespass will be waived, will be rejected (p. 164). No proceeding looking to criminal prosecution should be taken or threatened by any Forest officer without authority from the Forester or Law Officer, except as provided under

this head in cases where immediate arrest is necessary. Under ordinary circumstances settlement should be required as provided in civil cases, and criminal action recommended only in cases in which settlement is impossible.

In cases where immediate action is necessary in order to protect the Forest from damage, or in any clear case where the trespasser is liable to escape if not arrested at once (p. 255), the ranger will place the trespasser under arrest if he is detected in the act of committing a trespass; will notify the supervisor at once, advising him of the need for immediate action, the evidence against the trespasser, and the United States Commissioner before whom the hearing will be held. He will also secure evidence upon all of the points mentioned under the head of civil cases. He will immediately take the prisoner before the proper Commissioner, swear to a complaint, represent the Forest Service at the hearing, and hold the prisoner for disposition according to the instructions of the Commissioner. After the case has been acted upon by the Commissioner the ranger will submit full reports upon the proper forms, as in a civil case, to the supervisor, including a statement regarding the urgency of the need for the arrest, and the decision and rulings of the Commissioner.

The supervisor upon receipt of the ranger's preliminary report should endeavor to attend the hearing before the Commissioner as a representative of the Forest Service, or, failing in that, should give the ranger full instructions relating to the management of the case, approving or disapproving the ranger's action in making the arrest. As soon as the case before the Commissioner has been decided and the ranger has submitted full reports upon the proper forms, the supervisor should consider, approve, and record them in the proper manner, and forward all papers in the case to the Forester for action, adding such recommendations as are necessary, and stating in full all rulings and decisions made by the Commissioner, after which he should await instructions from the Law Officer before proceeding further.

In all cases where a trespasser has paid the damages assessed against him, or has paid the fine imposed upon him by the court as a penalty for having grazed stock upon the National Forest in trespass, the case will be closed without prejudice, and his subsequent applications for grazing permits or other uses of the National Forest may be considered upon their merits.

The attention of all Forest officers is called to the fact that where information is furnished to the Service relative to trespass upon the National Forests or violations of the laws and regulations for the use of the National Forests, it should always be considered as strictly confidential.

Such information, without which the Service often could not successfully determine the truth or falsity of the charges made, should never be subject to idle gossip or discussion in public where it can be used to the injury and distress of the person furnishing it.

REG. 50. Permits will be granted only for the exclusive use and benefit of the owners of the stock, and will be forfeited if sold or transferred in any manner or for any consideration. (Appendix, p. 214.) Speculation in the use of grazing permits will not be allowed, and permits will be refused or canceled for intentional false statement of the number of stock owned.

In case a permittee shall sell the stock covered by permit to a purchaser who wishes to continue grazing it on the National Forest, upon presentation to the supervisor of evidence that the sale is bona fide, the permit will be canceled and a new permit will be issued to the purchaser, without cost, for the remainder of the grazing period allowed in the original permit. The issuance of a permit under these circumstances does not carry with it any guaranty that a renewal will be allowed for the number of stock the original permittee

might have been entitled to graze, but is granted with the understanding that in subsequent permit allotments the purchaser will be considered solely upon the merits of his case.

The mere purchase of a portion of the stock which has been grazed under a permit upon the National Forest will not entitle the purchaser to share in the grazing during the following year, but when the entire herd of stock, or both the stock and the ranches used in connection with it, are purchased, then an equitable share of the grazing will be allowed the new owner. The preference given on account of prior use of the range is a personal privilege and is not transferable. All grazing permits issued on account of the purchase of stock will be subject to the maximum limit restrictions after the expiration of the ensuing permit period, and no person, partnership, or corporation will be allowed a renewal of permit for stock purchased, on a number in excess of the maximum limit established by the Forester.

Permits allowing the purchaser of stock to continue grazing it on a National Forest will be given a new number in the regular serial order. In cases where only a portion of the stock is sold, or when a portion of the grazing fees paid is transferred to the credit of another person or of a permit on another Forest, a new permit bearing the same serial number as the first permit will be issued to the original owner for the number of stock retained by him.

APPLICATIONS FOR PERMITS.

REG. 51. The supervisor will set and give public notice of a date each year on or before which all applications for grazing permits must be presented to him. Permits may

be refused to persons who do not file their applications within the required limit, unless satisfactory reasons are given.

In setting the date on or before which applications for grazing permits must be presented, ample time will be given all persons who are entitled to share in the range to file their applications.

In case the total number of any kind of stock applied for before the date which has been set does not equal the number allotted to the National Forest, applications received subsequently may be approved until the total allotment has been reached.

REG. 52. Grazing applications must not cover more stock than the applicant desires to graze in the National Forest, and must show the marks and brands of the stock, the portion of the National Forest or district in which pasture is desired, and the grazing period.

When applications are made either by new settlers or regular occupants of the range for permits to graze stock which they intend to purchase before the beginning of the grazing period, a statement to that effect will be made on the application blank.

Applications will be divided into two classes—cattle and horses, and sheep and goats—and will be numbered separately. The cattle and horse grazing applications will begin each season with No. 1, and the sheep and goat applications with a number such as 301, 501, etc., which will be above the highest number given any cattle and horse grazing application for the same National Forest. When an owner of cattle or horses also wishes to graze sheep or goats, he should make separate application for each class of stock. Hogs will be included in application for cattle or horses. Mules and burros will be counted and charged for as horses.

The amendment of an application, reducing the number of stock for which it has been approved, will not be allowed except when the shortage is caused by circumstances over which the applicant has no control. In case the total number of stock authorized to graze upon the Forest has not been applied for, amended or supplemental applications, increasing the number of stock for which permit will be given, may be approved with the understanding that no permanent range rights are necessarily allowed for the increased number of stock.

Amended applications increasing or reducing the number of stock before the issuance of the permit will be given the same number as the original, but when a second application is made subsequent to the issuance of the first permit it will be given a new number in the regular serial order and a cross reference made on the folder.

Whenever the range used by an applicant for a grazing permit is located in two adjoining National Forests, and it is not practicable to divide the stock, upon mutual agreement between the supervisors the permit may be issued for the National Forest within which the greater portion of the range is located, and with the understanding that it allows the stock to be grazed upon both National Forests.

Whenever any special action is taken in the approval of an application or the issuance of a permit, an explanatory note will be made on the lower left-hand corner of the blank.

Applications will not be numbered until they have been acted upon, and those which are disapproved will not be included in the numbered series. Disapproved applications will be filed alphabetically under a separate guide card.

Applications for the use of private lands or for crossing permits will not be included in the numbered series, and will be filed alphabetically under a separate guide card placed behind the applications for regular permits.

Applications for permits during a period of more than one year will be approved only after special authority has been given by the Forester. The permits will be issued annually, and the grazing fees, at the regular current rate, must be paid annually in advance on the full number of stock for which the application is approved.

Approved applications for permits during a period of more than one year will be canceled for failure to pay the grazing fees for any one year, unless, in the opinion of the supervisor, the range should be given a rest, or for failure to use the range for more than one year, even though the fees have been paid.

All approved applications for more than the protective limit number of stock will be subject to annual reductions, if found necessary to provide for the issuance of permits to bona fide settlers.

Upon approval of a grazing application, the supervisor will immediately notify the applicant of the action taken, stating the number of stock allowed and the amount to be paid for grazing fees. A duplicate copy of each notice of approval (Form 762) will be sent to the Forester at once, but a duplicate letter of transmittal (Form 861) will not be sent for grazing fee payments.

Whenever a grazing application is disapproved, the supervisor will at once notify the applicant to that effect by letter, giving the reason for such action, and also send a copy of the letter to the Forester.

REG. 53. Whenever there is a dispute between grazing applicants for the same area, the supervisor will notify them to appear before him at a stated time and place, to make a statement of their claims. After all evidence has been presented the supervisor will decide who shall be

granted permits, and will forthwith notify each party to the dispute of his decision and his reasons therefor, which will be final unless written notice of appeal to the Forester is given him within ten days thereafter. Appeal will avail only in case of error.

An appeal to the Forester as provided in Reg. 53 should set forth the facts which, in the opinion of the appellant, make the supervisor's decision unwarranted by the law and the regulations. It should be filed in duplicate with the supervisor, who will at once transmit one copy to the other party, with notice that ten days are allowed for answer, plus a reasonable time, to be specified in the notice, for the transmittal of the appeal and the answer. The answer should be filed in duplicate, and one copy transmitted at once by the supervisor to the appellant, who will be allowed ten days in which to make final reply. Both appeal and answers must be in writing and verified by oath, and may be accompanied by affidavits of witnesses having knowledge of the facts. No other evidence will be taken unless called for by the Forester. When the appeal and answers have been filed, the supervisor will transmit the originals to the Forester, with a copy of his decision and argument in the case. Pending a decision by the Forester upon the appeal, the party occupying the range will be allowed to continue its use, but must remove his stock within ten days from the date of notice that the Forester has decided against him.

REG. 54. Persons owning cattle and horses which regularly graze on ranges located along the boundary line and only partially included within a National Forest may

be granted permits for such portion of their stock as the circumstances appear to justify, but may be required to herd or so handle their stock as to prevent trespassing by that portion for which a permit is not granted, and to sign a supplemental agreement to that effect.

In the approval of applications from the owners of stock which graze on and off the National Forest, the Forest officers will make an estimate of the average number which will probably be grazed upon the National Forest lands, and will require the full grazing fee to be paid upon this number.

The payment required will be figured upon the proportionate number of stock, instead of the proportionate amount of the fees, and in no case will a division be made of the grazing fee upon one animal. The permit will be issued only for the number of animals upon which the grazing fees have been paid, but will mention in a proviso the full number of animals which will be grazed both on and off the National Forest lands. Only the number of animals upon which the fees are charged will be counted against the number authorized to graze by the Secretary of Agriculture. The supplemental agreement to prevent the grazing of unpermitted stock need not be required, unless this number is in excess of that which the applicant would be entitled to graze and is willing to pay the grazing fee upon.

Such different grazing periods will be established for each National Forest as are necessary to meet the general needs of the people and to secure an economic use of the forage. No reduction in grazing fees will be made because the stock will not be grazed upon the National Forest during the entire period allowed, nor will an increased number of stock be allowed to enter the National Forest for this reason.

FEES.

REG. 55. A reasonable fee will be charged for grazing all classes of live stock on National Forests. The prices will be as follows, depending upon the advantages and locality of the Forest: From twenty (20) to fifty (50) cents per head for cattle and horses for the summer grazing season, and from thirty-five (35) to seventy-five (75) cents per head for the entire year; from ten (10) to twenty (20) cents per head for hogs for the summer grazing season, and from twenty (20) to forty (40) cents per head for the entire year; from five (5) to twelve (12) cents per head for sheep and goats for the summer grazing season, and from ten (10) to twenty (20) cents per head for the entire year. An extra charge of two (2) cents per head will be made for sheep or goats which are allowed to enter the National Forests for the purpose of lambing or kidding. All stock six months old and over at the time of entering will be counted as grown stock.

In calculating the number for which permit will be required and the amount to be paid for grazing fees, no count will be made of animals under 6 months of age at the time of entering that are the natural increase of the stock upon which fees are paid or for those born during the year for which permit is granted. The intent is that all animals born during any calendar year shall be counted and charged for during the following year.

When permits for the summer season are extended to cover the year-long period, an additional charge of five (5) cents per head on cattle and horses, and one (1) cent per head on sheep and goats, will be made in

advance of the difference between the fees for the summer and year-long grazing periods.

The number of animals allowed upon a National Forest, or for which a permit is granted, will be calculated on a flat-rate basis, counting only stock 6 months old and over.

REG. 56. All grazing fees are payable for each year strictly in advance. When an applicant for a grazing permit is notified by the supervisor that his application has been approved, he will remit the amount due for grazing fees to the Fiscal Agent, Forest Service, Washington, D. C., and upon return of the certificate to the supervisor a permit will be issued allowing the stock to enter the Forest and remain during the period specified.

Persons who fail to pay the grazing fee thirty days before the beginning of the grazing period must notify the supervisor and give satisfactory reasons, or they may be denied a grazing permit the following season.

Applications for grazing permits will not be disapproved for nonuse of the range during one year, if a statement giving satisfactory reasons is filed with the supervisor before the opening of the grazing period for which the fees are not paid.

When payment of a fee is required by the Forester, the Forest officer will furnish the applicant with a printed letter of transmittal, which must accompany the remittance to the Fiscal Agent. (Reg. 75.) No duplicate letter of transmittal (Form 861) will be sent to the Forester for payments on account of grazing fees.

When the Fiscal Agent's certificate is received, showing that payment in full has been made, the permit will be issued. Each permit will be given the same number as the application upon

which it is based, and a duplicate copy will be sent to the Forester at once.

Grazing fees paid on any National Forest under circumstances which would warrant a refund may be transferred to the credit of a permit on another National Forest, or to the credit of another person, upon presentation to the Forester of a written order signed by the person who made the original payment.

Whenever payment in excess of the amount due is made, the amount overpaid will be refunded upon receipt of the duplicate permit by the Forester. (Reg. 76.)

REG. 57. The fees paid on account of a grazing permit which has been duly issued will not be refunded for non-use of the permit, except when, in the opinion of the Forester, the applicant is prevented from using the range by circumstances over which he has no control.

Refunds will not be made on account of the stock having been sold after the issuance of the permit.

Applications for the refund of money paid on account of a grazing permit must be accompanied by a written statement giving the reasons for not using the permit.

Upon receipt of such application and statement by the supervisor, he will forward it to the Forester with a recommendation for its approval or rejection. The Forester will decide whether or not the refund will be made. All vouchers for refunds will be prepared by the Forester and sent to the supervisor for signature of the applicant.

RESTRICTIONS IN HANDLING STOCK.

REG. 58. When an owner who has a permit is ready to drive in his stock he must notify the nearest Forest officer, by mail or otherwise, stating the number to be driven in. If called upon to do so, he must provide for having his

stock counted before entering the National Forest, or at any time afterwards when the number of stock appears to be greater than the number covered by permit. Whenever any stock is removed before the expiration of the permit, it can be replaced by other stock to fill out the number covered by permit if the nearest Forest officer is notified of such action at once. The owners of stock which is kept under herd upon the National Forests will be furnished with cards for the identification of their herders by Forest officers.

Corrals for use in counting stock should be constructed at convenient points, and compliance with this regulation should be insisted upon, so far as possible, without serious interference with the proper handling of the stock. It is intended that no attention shall be paid to slight differences between the number of stock counted and the number covered by permit, unless there is an evident intention to evade payment of grazing fees on the full number of stock.

REG. 59. Each person or group of persons granted grazing permits will be required to repair all damage to roads or trails caused by the presence of their stock in any portion of a National Forest, and to build any new roads or trails found necessary for the proper handling of the stock. They will also be required to fence any spring or seep which is being damaged by tramping, and, if necessary, pipe the water into troughs for watering stock. Such troughs must be open for public use.

REG. 60. Sheep and goats must not be bedded more than six nights in succession in the same place, except when bedding bands of ewes during lambing season, and must not be bedded within 300 yards of any running stream or

living spring, except in rare cases where this restriction is clearly impracticable.

REG. 61. The carcasses of all animals which die in the close vicinity of any water must be removed immediately, and buried or burned.

REG. 62. Whenever the Forest officers require it, all stock grazed under permit must be salted regularly at such places and in such manner as they may designate.

REG. 63. All persons holding grazing permits are required to extinguish camp fires started by them or their employees before leaving the vicinity thereof, and to aid in extinguishing all forest fires within the division or district of the National Forest in which they are grazing stock.

REG. 64. Whenever an injury is being done the National Forest by reason of improper handling of the stock, the owner must comply with the orders of the Forest officers or the permit will be canceled and the stock removed. The grazing of stock upon a closed area or upon range not allowed by the permit will constitute a trespass, and the owner of the stock will be held liable for damages.

It is within the authority of the Forest officers to drive unpermitted stock from the National Forests, and to drive permitted stock from any portion of a National Forest not included in the permit; but permitted stock must not be driven from the range to which it has been assigned without authority from the Forester, by wire if necessary. In all cases of violation of the regulations, when immediate removal of the stock is deemed necessary, a report will be made to the Forester, and upon its receipt by him, if the recommendations are approved, the permit will be canceled and authority will be given to remove the stock.


All persons who violate the regulations in regard to the repairing of damage to roads and trails, fencing of springs, bedding of sheep near streams or too long in the same place, removal or burial of dead animals, salting of stock, extinguishing fires, or complying with the orders of Forest officers when damage is being done to the forest or range will make themselves liable for the amount of the damage or to a reduction in the number of stock allowed the following year.

Whenever it is necessary for the protection of a National Forest, or of the interests dependent upon it, the supervisor may require the owners of transient stock, or nonresidents of the State or Territory in which a National Forest is located, to give a good and sufficient bond to insure payment for all damages caused by any violation of the regulations or the terms of the permit.

In all cases where a bond is required the supervisor will prepare it, using the regular blank form, stating the number and kind of stock to be grazed and the portion of the range to be occupied, and send it to the applicant with the notice of approval of the application. The bond must be executed and returned to the supervisor, who will forward it to the Forester. The permit will not be issued until the bond has been approved by the Forester and the grazing fees paid in full.

USE OF PRIVATE LAND.

REG. 65. Persons who own, or who have leased from the owners, land within the exterior limits of any National Forest which they desire to use for grazing purposes will be allowed to cross the Forest lands free of charge with their stock to reach such private holdings, but when the stock will be grazed on National Forest land en route,



they must make application to the supervisor for a permit to cross. The application must be accompanied by a personal certificate of title showing the description and ownership of the land, and, if leased from an owner, a copy of the lease, and must state the number of stock to be taken in, the length of time required to cross the National Forest land, the route over which the stock is to be driven, the period during which the stock will remain upon the private land, and how much stock the owned or leased land will pasture during the period specified.

When the private land is unfenced a special clause may be inserted in the agreement waiving the right to the exclusive use of the private land and allowing it to remain open to other stock grazed under permit, in consideration of which a permit will be issued, free of charge, allowing the stock to be grazed at large upon the National Forest, but the grazing fee must be paid on all stock over the estimated grazing capacity of the private lands.

The right to graze sheep and goats at large upon National Forest lands, in consideration of waiving the right to the exclusive use of private lands, will be allowed only upon such National Forests or portions thereof as are open to this kind of stock.

Persons grazing stock under this regulation who fail to make the special agreement allowing other stock to enter upon the land will be required to keep their stock within the limits of the land under their control either by herding or fencing.

The determination of all questions involving the title of land is within the jurisdiction of the Secretary of the Interior, and therefore it is necessary to ascertain from the records of the

General Land Office that the title to the land claimed has passed from the United States before the rights of the claimant can be recognized.

Bona fide settlers upon surveyed lands within the National Forests who have made entry under the homestead act, but have not yet made final proof, may be allowed permits for grazing the number of animals their lands will support.

Persons who have filed upon land within the National Forests under laws not requiring residence upon it may be allowed grazing permits in exchange for the use of such land, after they have made final payment for the land.

Persons who own or who have leased Indian allotments within the National Forests may be allowed permits to graze the number of animals the lands will support, provided evidence is presented showing that patent has been issued or that a lease has been executed upon the printed blanks of the Indian Office and approved by the Commissioner of Indian Affairs.

Bona fide squatters residing upon lands within the National Forests which have been examined and recommended for listing under the act of June 11, 1906, and who have a sufficient amount of land under cultivation to show compliance with the law, and bona fide settlers on unsurveyed lands who have not made application under the act of June 11, 1906, but who are waiting survey with the intention of making entry under the homestead act, may be allowed permits for grazing the number of animals the land claimed will support for areas not in excess of 160 acres. The approval of applications for the use of unsurveyed land held by squatters must be based on whether or not bona fide settlement has been made. In case there are conflicting claims, the rights of neither claimant should be recognized until the matter has been adjusted by the General Land Office.

Persons who have entered into agreement to purchase or who have leased from a State any lands which have been selected under authority of an act of Congress, and the lists of which have been filed with the Commissioner of the General Land Office but have not been approved, will be allowed the use of

these lands for grazing purposes, pending final action upon the validity of the selections.

In permits based upon the right to the use of unapproved State selections the following clause should be inserted:

And provided, That the issuance of this permit gives no right to the use of the above-described lands except for grazing purposes, and in case the selection made by the State is disapproved this permit shall be null and void.

The use of railroad lands within the primary limits of a grant made by act of Congress, whether selected or not, which has been surveyed and classified as nonmineral, and the use of railroad land within the indemnity limits which has been surveyed and selected, will be allowed for grazing purposes under the same conditions as unapproved State selections. The right to use unsurveyed railroad lands will not be recognized, but persons who reside upon and have entered into an agreement to purchase unsurveyed railroad lands may be allowed to occupy not more than 320 acres under a special-use permit at a nominal charge of two dollars (\$2) per annum.

Persons who are in legal possession of unperfected valid mining claims have the right to use such portion of the grass and other forage as is needed for grazing live stock used in the development of the claims, but they have no right to dispose of the grass or forage to any other person, or to collect any rental for the use of such claims for grazing purposes.

The owners of patented mining claims are in full possession of the lands and are entitled to every use allowed the owners or lessees of any other patented land, but no permit must be issued allowing stock to be grazed free of charge in exchange for the use of unperfected mining claims.

When the title to the land has been determined by comparison with the Forest Atlas or by reference to the Forester, if private land is unfenced and the owner or lessee desires to waive the right to its exclusive use, an examination should be made by a Forest officer to determine the grazing capacity of the land. In no case will a free permit be issued for a larger number of

stock than the land will support. If the owner or lessee of uninclosed land does not desire to waive the right of its exclusive use, it will be necessary to require that the stock be so handled that the animals will not intrude upon adjoining areas of the National Forest. In such cases, in order to protect the National Forest from trespass or injury, the supervisor should refuse to approve an application for more stock than the land will reasonably support.

When the private land is fenced so that there is no danger of intrusion by the stock on National Forest lands, then the application may be approved for a permit allowing such number of stock to be driven across the National Forest as the applicant desires to graze upon his land. When the fenced private land can be reached by a public highway without driving the stock across the National Forest lands, no permit will be required.

A card record should be made of each case showing the name and address of the applicant, the acreage of the land owned or leased, the number of each kind of stock to be grazed, the time allowed for crossing, and whether or not the right to the exclusive use of the land has been waived in exchange for a free permit to graze the stock upon the National Forest.

The application Form 925, report on the grazing capacity of the land Form 251, and the triplicate copy of the permit Form 656 should be filed in a folder under the general title of "Use of Private Lands." The permit in all cases should be written in triplicate, showing the area of the private land, and the original copy sent to the applicant. The duplicate copy will be sent to the Forester immediately after its issuance, and will be considered as a final report in the case.

CROSSING PERMITS.

REG. 66. Persons wishing to drive stock across any part of a National Forest must make application to the supervisor or other Forest officers, either by letter or on the regular grazing application form, for a permit to graze stock en route, and must have a permit from the supervisor,

or such other Forest officer as he may designate, before entering the National Forest. The application must state the number of stock to be driven, the date of starting, and period required for passage. Grazing must be confined to the limits and along the route designated by the Forest officers, and will only be allowed for the period actually necessary for stock to cross the National Forest.

Permits will not be required for driving small bands of stock along public highways, or when the stock will not be grazed upon National Forest lands en route.

Whenever it appears necessary for stock to cross regularly any portion of a National Forest in which grazing is prohibited, the supervisor will make a full report of the facts, with a description of the regular route traveled, the width of driveway necessary to allow the proper grazing of stock across the National Forest, the number and class of stock which will probably cross, and the number of days required for crossing. Upon receipt of such report by the Forester, if the circumstances warrant such action, a regular driveway will be established and the rights to be granted will be defined. Permits will be required for stock crossing the Forest on a regular driveway.

If occasion demands, rangers will be detailed by the supervisor to accompany the stock and see that there is no delay or trespassing.

No charge will be made for crossing permits issued under the above regulation. When a permit is desired for crossing the forest with stock at regular intervals during an entire grazing season under conditions which warrant the charging of a grazing fee, the permit will be issued under Regulation 54, and will be included in the regular numbered series.

Crossing permits will be issued in triplicate, one copy delivered to the applicant, one copy retained by the Forest officer issuing it, and one copy filed in the office of the supervisor. At the end of each fiscal year the supervisor will make a report to the Forester showing the number of crossing permits issued

during the year, the name of the owner of the stock, the number of animals driven across the Forest, and the period allowed for crossing.

DRIFT FENCES AND INCLOSURES.

REG. 67. The construction and maintenance of drift or division fences will be allowed when they will be a benefit to the National Forest or its administration and will not interfere with the use of the range by all who are equitably entitled to share in the grazing.

A fence may be constructed or maintained if it does not give control of an area in excess of that actually required for pasturage of the stock which the person or persons maintaining it would be entitled to graze. If the range controlled by a fence is excessive in area, and should be shared by applicants other than those now using it, the fence must be either removed or changed, or the range opened to other permittees who are entitled to share in its use. All drift or division fences must be provided with gates at such points as are necessary to allow proper ingress and egress.

Whenever drift fences are needed for the better control of stock grazed under permit, all forest material needed for use in their construction may be furnished from the National Forest, free of charge, and in cases where the circumstances justify it the necessary wire and staples may also be furnished, if the stockmen using the range are willing to construct such fences with the understanding that they will become the property of the United States.

This permit is granted by the supervisor without charge other than the regular grazing fee. A map showing the location of the drift fence must accompany the report in each case.

REG. 68. The construction of corrals upon National Forest lands covering an area of not more than one (1) acre, to be used in connection with the proper handling of live stock which is permitted to graze thereon, will be allowed without charge wherever in the judgment of the Forest officers such corrals are necessary and will not be detrimental to the proper care of the Forest.

This permit is granted by the supervisor, and need be reported only by sending the Forester a duplicate copy of the permit.

REG. 69. The construction of inclosures upon National Forest lands containing not more than three hundred and twenty (320) acres will be allowed, when such inclosures are necessary for the proper handling of the stock allowed to graze upon the Forests, under a special permit, for which an annual rental of not less than four (4) cents per acre will be charged in addition to the regular grazing fee. The fencing up of watering places for the purpose of controlling adjoining range will not be allowed, and in fencing pastures provision must be made to allow free access to water by any stock grazing under permit. The application may be made in the same manner as for other special uses.

Under this regulation the construction and maintenance of pastures will be allowed for the following purposes:

To pasture saddle horses, milch or work animals, graded or pure-bred stock, and bulls or rams.

To pasture beef steers or stock cattle which are being gathered and held just previous to their removal from the Forest, and to pasture calves which are being weaned.

To give settlers who live upon lands either within or on the border of a Forest the exclusive use of adjoining pasture lands during a portion of the year, when needed for protection against other stock which is permitted to graze on the National Forest.

Inclosures for stock exempt from grazing fees should not be of greater area than is needed for 10 head of milch or work animals, and when more than 80 acres is allowed for this purpose the supervisor should give good reasons for it in his report upon the case to the Forester.

In the approval of applications for the construction of inclosures upon National Forest lands, only such area as is needed for the purpose mentioned will be allowed. An inclosure of 320 acres will not be allowed when a smaller area would be sufficient for the needs of the applicant.

The character of the land, whether ordinary grazing or meadow land, whether or not there is living water upon it, and the demand for the use of the land should be considered in fixing the price to be charged. An advance over the minimum charge will be made whenever the area applied for is largely meadow land, or so located as to be in special demand for pasturing purposes. The minimum price is four (4) cents per acre in addition to the regular grazing fee; but in no case will the permit be given for less than two dollars (\$2) per annum.

When the area applied for includes land now bearing trees, the probable effect which grazing would have upon reproduction of the forest should be given careful consideration before the application is approved.

The inclosure of both pasture and agricultural or wild hay land may be allowed as one "use" in cases where the amount of agricultural or wild hay land is not more than 40 acres. The permit will be issued for a "pasture" and the fee will be based upon a charge of not less than 25 cents per acre for the agricultural land or 20 cents per acre for the hay land and not less than 4 cents per acre for the pasture land.

The permits granted under the three preceding regulations confer no property rights other than ownership of the improvements constructed, and all such improvements must be removed within ninety days after the expiration of an agreement unless sold to a successor who is entitled to continue in their use. Otherwise they will become the property of the United States.

The agreement will be made terminable at the discretion of the Forester, and will stipulate that failure to secure a renewal of the grazing permit, in connection with which it is granted, will cancel the agreement for the maintenance of the drift or division fence or pasture.

REG. 70. Stock-watering tanks may be constructed upon the National Forests under special-use permits, which will be issued free of charge to persons holding grazing permits when the use is noncommercial, and inclosures of not more than 40 acres may be allowed in connection therewith when necessary for the protection of the range, at an annual rental of not less than \$2.

The supervisor will treat an application for a pasture or stock tank in the same manner as any other special use, and upon payment to the fiscal agent, Forest Service, Washington, D. C., of the grazing fee or rental for the year the construction or occupancy may begin.

A map showing the exact location of the pasture or reservoir must accompany the report in each case.

Forest officers must not exceed the authority conferred upon them by the Use Book, nor in any way depart from the regulations and instructions governing special uses, without first securing specific authority from the Forester.

The purpose or purposes for which a **Special Use** permit is issued must be specified, and the conditions under which the use is allowed must be inserted as follows:

(1) Drift fences:

"To construct gates at such points as may be designated by the Forest officers in charge."

"This permit gives no right to exclusive use of any lands, and the range controlled by the fence must be open at all times to other permittees who are entitled to share its use."

(2) Corrals:

"To allow the use of this corral by Forest officers and all persons holding grazing permits."

(3) Dipping vats and corrals:

"To dispose of waste dipping solution and dead stock in such manner as the Forest officer in charge shall require."

"Only stock grazing in the National Forest under permit shall be dipped in this vat."

(4) Pastures:

"To leave watering places open to other stock grazing under permit."

"To construct gates at such points as may be designated by the Forest officer in charge."

"To allow the use of this inclosure at all times by the Forest officers for administrative purposes and for pasturing their saddle horses."

"This permit shall be without effect except in connection with a grazing permit and for the period of the year covered by the grazing permit."

(5) Stock tanks:

"To keep the stock tank in good repair."

"This permit shall be without effect except in connection with a grazing permit."

"This permit is granted with the understanding that the stock tank when constructed will become the property of the United States."

When the inclosure of a stock tank is allowed the following condition will be added:

"To allow the use of this inclosure at all times by the Forest officers for administrative purposes."

(6) Stockmen's cabins: No charge will be made for cabins or buildings used in connection with grazing stock upon the National Forest under permit, except when such cabins or buildings are used during the entire year as headquarter ranches.

Such other conditions may be inserted in the permit as are necessary to protect the interests of the National Forest.

Whenever an application for a special-use permit is denied, a letter will be written to the applicant giving the reasons for such action, and a copy of the letter will be sent to the Forester at once.

REG. 71. The erection or maintenance of any fence or inclosure upon any National Forest without a permit is prohibited, except upon patented land or upon a valid claim when necessary for the actual development of such claim consistent with the purposes for which it was initiated.

Persons who are maintaining illegal fences or inclosures upon public lands outside the National Forests will not be allowed to erect or maintain any drift fence or inclosure within a National Forest until after such illegal fences or inclosures have been removed, and any permit which has been issued to any such person for a drift fence or inclosure within a National Forest will be canceled upon presentation of satisfactory evidence to the Forester.

Persons maintaining illegal fences or inclosures within the National Forests, who are entitled to a continued enjoyment of such use under the regulations,

may be allowed to offer a proposition of settlement for the trespass, which will include payment of the regular fees in addition to any compensation due the Government on account of damage to the National Forest.

The presence of any illegal fence upon a National Forest should be reported by the supervisor, upon Form 856, and the evidence upon which the complaint is based should be given in full, so that if necessary the case may be referred to the Department of Justice for action. The presence of illegal fences outside the National Forests should be reported only by letter.

WILD HAY.

REG. 72. Wild grass upon National Forests may be cut for hay under permits issued by supervisors. A charge will be made of not less than twenty (20) cents per acre. Application should be made upon Form 832 to the supervisor, directly or through a ranger, stating the area of the tract desired and the price offered.

The permits will be issued under the general instructions governing special-use cases. The supervisor will not permit cutting until he has assurance that the purchase price has been forwarded to the fiscal agent.

In issuing permits to cut hay preference should be given those applicants who actually need the hay for their own use rather than to those who contemplate selling it to others.

QUARANTINE AND LOCAL LAWS.

REG. 73. All stock which is grazed under permit in or allowed to cross any National Forest will be required to conform to the quarantine regulations of the Bureau of Animal Industry, U. S. Department of Agriculture, and all live-stock laws of the State or Territory in which the National Forest is located.

Whenever the stock in any locality is known to be infected with a contagious disease, or notice to that effect has been given the Forester by the Bureau of Animal Industry, the owners of all stock to be grazed in National Forests must, if required to do so, subject the stock to inspection, and, if found necessary, have such stock dipped or otherwise treated before it is allowed to enter. At any time during the period for which a grazing permit has been issued, if the stock is found to be infected with a contagious disease, it must be dipped or otherwise treated in accordance with the instructions of the inspectors of the Bureau of Animal Industry, or the permit will be canceled and the stock removed from the National Forest.

The owners of all stock grazed under permit must comply with the live-stock laws of the State or Territory, or their permits will be canceled. Rangers will report at once any violation of the live-stock laws, and will assist the stock owners to protect their property against loss by theft.

PROTECTION OF GAME AND STOCK.

REG. 74. All Forest officers will cooperate with State or Territorial officials, so far as they can without undue interference with their regular Forest work, to enforce local laws for the protection of game and stock. When authorized to do so by the proper State officers, they will, without additional pay, except bounties and fees offered by associations and States, act as game wardens with full power to enforce the local laws. If not so authorized, they will promptly inform the State officials of all violations discovered. (Appendix, p. 221.)

Rangers should, when necessary, inform all persons of the local stock and game laws and endeavor to prevent their violation. This can best be done by courtesy and tact. If actual violation of the law is discovered by the ranger, he will at once notify the proper State officer, if practicable, and report this action to the supervisor. If unable to communicate with the State officer, or if no action follows, he will give the facts to the supervisor, who will transmit them to the proper State authority.

When extra expense is incurred by Forest officers in performance of their duties as game wardens, for which they will not be reimbursed by the State or Territory, it will be paid by the Forest Service. Such expenses should be submitted in accordance with the instructions of the Green Book.

It is desirable that supervisors should communicate with the State or Territorial game warden, and obtain appointment for themselves and all the rangers under their supervision as deputy State game wardens. This appointment is sufficient warrant to arrest for offenses against the State or Territorial game laws.

The Forest Service will not issue any permit which would result in preventing or restricting lawful hunting and fishing in National Forests, and therefore will not issue any permit for a game or fish preserve, even though the applicant for such permit may have a license from the State to impound game or fish.

Whenever it is found that the stock interests are suffering or that the number of game animals or birds is on the decrease on account of wolves, cougars, coyotes, bobcats, or other predatory animals, a report should be made to the Forester, with recommendations for such action as is necessary to get rid of them.

Forest rangers and guards may be assigned to the work of hunting predatory animals for a limited time each year, and will be furnished with necessary ammunition, poisons, and traps. If none is sufficiently experienced or can be spared for the work, professional hunters may be recommended for appointment as guards for such period as their services are required.

Supervisors upon whose Forests rangers or guards are employed as hunters will submit a monthly report to the Forester showing the work accomplished during the preceding month in the extermination of predatory animals. This report should be a summary of the hunter's daily-service reports filed in the supervisor's office. It should be prepared in duplicate by the hunter, who will send both copies to the supervisor, with his service report, at the end of each month. The supervisor will retain one copy and send the other to the Forester. In this report the number of animals of each kind killed should be stated; also the manner in which they were killed, whether by trap, gun, poison, or dogs, and any other information which may be of interest.

Predatory animals killed by Forest officers other than hunters or on Forest where hunters are not employed, will be reported by them in their daily-service reports, and the supervisor will compile the data at the end of each month and submit a report to the Forester.

RECEIPTS.

REG. 75. The Fiscal Agent, Forest Service, Washington, D. C., is authorized to receive all payments to the Forest Service. The Special Fiscal Agent, Ketchikan, Alaska, is authorized to receive payments on account of transactions in Alaska. All other Forest officers are prohibited from receiving any payments. Payments must be by postal or express money orders or national-bank drafts on New York

City, drawn payable to the Treasurer of the United States, but forwarded to the Fiscal Agent, accompanied by printed form letters of transmittal (Form 861), which will be furnished the payor by the Forest officers. The letter of transmittal must designate the transaction on account of which the payment is made, and must be signed by the payor and the Forest officer conducting the transaction. A duplicate of the form letter of transmittal, signed only by the Forest officer, for all payments except grazing fees, must at the same time be sent to the Forester.

Forest officers will explain to persons making payments the requirements of Reg. 75. At the time the letter of transmittal is signed by the Forest officer and delivered to the payor the form in which the remittance must be made should be fully explained. No action will be taken on any application if the remittance is not made as required by this regulation, but the remittance will be returned to the sender. Forest officers should make out the letter of transmittal for the payor and see that it is correct in every particular. Special care should be taken to see that the payor's correct address is given. Before signing any letter of transmittal the Forest officer will make a copy, except when prepared in the Forester's office (p. 57), and except when payments are for grazing fees (see instructions on p. 125) mark it on the upper margin with rubber stamp or pen and ink with the words "*Duplicate, for the information of the Forester,*" and send it to the supervisor, who will make the proper record, initial it on the lower left-hand corner, and send it to the Forester.

REFUNDS.

REG. 76. Claims for refund of payments made on the Forest Service must be addressed to the supervisor, who will forward them to the Forester with his recommendations. If the Forester approves the claim, the amount

found not due the United States will be refunded by the Fiscal Agent upon presentation of a voucher prepared in accordance with the Fiscal Regulations and approved by the Forester.

Claims for refunds should be sent to the supervisor of the Forest on which the original payment was made, who will send them to the Forester with his recommendations. If the claim is allowed, a voucher will be prepared and sent to the claimant for his signature and returned to the Forester, who will instruct the Fiscal Agent to pay the claim. Refunds on grazing permits are subject to special restrictions (Reg. 57).

BONDS AND CONTRACTS.

REG. 77. The Forester and such officers as he may designate may demand and approve such bonds, require such stipulations, and approve and execute such leases and other contracts as are required or permitted by law or these regulations, or as the Secretary of Agriculture is required or permitted to demand, approve, require, or execute in matters affecting the Forest Service and the National Forests.

Final acceptance of any bid or informal offer made to the supervisor or Forester should be postponed until the formal papers embodying the contract are submitted to the proper officer for approval. The reply to the bid may be made in substantially the following form:

"The bid of John Smith will be accepted upon approval by the Forester (or supervisor as the case may be) of the contract of sale."

When a bond is required to secure the performance of any contract, the bond and contract should be approved upon the same date, and the identical date of approval should be noted

in writing upon both the contract and the bond in substantially the following form:

Approved ———, 1907.

(Signature) _____,

Forester (or Supervisor).

The bond should give the date upon which the contract was signed by the applicant, and should specify the land involved, the use contracted for, and in a timber sale the kind, estimated amount, and price of the timber sold.

The supervisor should see that both the sureties and principals sign their names uniformly throughout the bond. Thus, anyone who signs his name "John B. Smith" on the face of the bond should not sign elsewhere as "J. B. Smith." It is not desirable that members of a corporation which is a party to the contract should act as sureties on the bond executed by the corporation. Bonding companies usually issue continuing bonds for an indefinite period. This form of bond is excellent and may be made to cover all the operations of an applicant. Such a continuing bond must describe as accurately as the circumstances admit the future contracts intended to be secured by it.

PROTECTION AGAINST FIRE.

Probably the greatest single benefit derived by the community and the Nation from National Forests is through the protection of property, timber resources, and water supply against fire. The direct annual loss from this cause on *unprotected* lands reaches many millions of dollars; the indirect loss is beyond all estimate.

The Forest Service, by its protective measures, has greatly reduced the damage by fire on the National Forests. During the last three years the total area burned over has steadily diminished. For the last year

it was less than one-tenth of 1 per cent of the total area of the National Forests.

The burden of adequate protection against fire can not well be borne by the State or by its citizens, much as they have to gain, for it requires great outlay of money to support a trained and equipped force, as well as to provide a fund to meet emergencies. Only the Government can do it, and, since the law does not provide effective protection for the public domain, only in the National Forests can the Government give the help so urgently needed.

Through its fire patrol the Forest Service undertakes to guard the property of the resident settler and miner, and to preserve the timber, water, and range upon which the prosperity of all industries depends. The help it can give to the development of the West may be greatly increased by the cooperation of citizens. Destructive forest fires are not often willfully set, but far too commonly they result from failure to realize that carelessness will be followed by injury and distress to others. The resident or the traveler in forest regions who takes every precaution not to let fire escape, and who is active in extinguishing fires which he discovers, contributes directly to the development and wealth of the country and to the personal safety and profit of himself and his neighbors. He who does not assume a great responsibility by endangering not only his own welfare, but that of countless others.


Citizens' fire brigades have been organized successfully in many National Forests. Not only is the prevention of fire to the interest of all property owners, but

men under obligation to fight fire because they hold permits will profit greatly by such prevention, because it reduces the work which they may be called upon to do. An organization which will put out a fire before it gathers headway may save many days' hard work.

Residents in the vicinity of Forests, and especially those holding permits of any kind, are urged to cooperate with the Forest officers by holding themselves in readiness to respond with a fixed number of men to a call from the Forest officer. If, for example, one man in each of ten different districts had previously notified the supervisor that he would hold himself responsible for the appearance of himself and nine others at any fire that could not be controlled by the Forest force, by calling on the ten men a force of a hundred would be quickly available. The local ranger should keep these leaders informed of his movements as far as practicable. States, towns and cities, lumber companies, water companies, railroads, and others interested are invited to cooperate with the Forest Service in guarding against fire.

Care with small fires is the best preventive of large ones. The following simple regulation may easily be observed by all, and its violation will be treated as trespass. (Appendix, p. 253.)

REG. 78. The willful setting on fire, or causing to be set on fire, of any timber, brush, or grass, or leaving or suffering any fire to burn unattended near any timber or other inflammable material in a National Forest is prohibited.



REG. 79. Camp fires must not be larger than necessary; must not be built in leaves, rotten wood, or other places where they are likely to spread, or against large or hollow logs, where it is difficult to be sure when they are completely out. In windy weather and in dangerous places camp fires must be confined to holes, or all vegetable matter must be cleared from the ground around them. A fire must never be left, even for a short absence, before it is completely extinguished.

Officers of the Forest Service, especially rangers, have no duty more important than protecting the Forests from fires. During dry and dangerous periods this work should be given first place. Methods and equipment for fighting fire should be brought to the highest efficiency.

A ranger should never start on fire-patrol duty without an ax or a shovel, or both, and in case he sights a smoke on his district, or near to it, he must absolutely assure himself of its cause. Boxes containing fire-fighting tools should be placed at convenient points throughout the Forest.

The Forests must be thoroughly posted with fire notices. The fact that some of them are destroyed is no excuse for neglecting this important duty. Often the notices can be posted on or near signboards along trails, or notices of Forest boundaries, limits of districts, or excluded areas in grazing ranges, etc. The destruction of these notices is willful trespass, punishable by law. If destroyed, they should be replaced as soon as their loss is discovered. The notices should be posted on private lands near the Forests whenever permission from the owner can be secured.

Forest officers should cheerfully and politely tell hunters, campers, and others about the rules and regulations governing camp fires. An officer who loses his temper or uses improper language in talking with persons who are careless because they do not know about the rules, or have no experience in camping, *fails in one of his principal duties. He should call their*

attention to the mistake and instruct them courteously in the proper way of building and handling fires.

REG. 80. Lumbermen, settlers, miners, prospectors, and other persons using the National Forests are cautioned against making dangerous slashings, and must not fire them in very dry weather. If it is necessary to burn slashings, ample notice must always be given the nearest Forest officer before burning, so that he may take steps to reduce the danger. If notice is not given, or if the ranger's instructions are not followed, the person responsible for the burning will be held strictly accountable for all damage to the Forest, and will be liable, in aggravated cases, to criminal prosecution.

There is no desire to hamper the work of settlers and lumbermen nor to limit the rights of property holders, but it is not just that other forests and improvements, whether owned privately or by the Government, should be endangered by carelessness.

The utmost tact and vigilance should be exercised where settlers are accustomed to use fire in clearing land. Public sentiment is rightly in sympathy with home builders, and the control of their operations should give the least possible cause for resentment and impatience with the Forest administration, but it should be exercised firmly, none the less. Settlers should be shown the injury to their own interests, as well as to the public, which results from forest fires. Methods and times of burning should be discussed with them, and, if possible, an amicable agreement secured to have no burning except when authorized by the Forest officer and when he is present. But while the aim should always be toward cooperation and good will, it is equally important to have it well understood that Forest interests will be protected by every legal means.

When any tendency to ignore instructions is observed, notice must be given that action will be brought for any damage sustained by the United States, and that willful negligence will be prosecuted criminally. If this is ignored and damage does result, prosecution must be prompt and vigorous. Where there is sufficient reason to anticipate danger, as from a large slashing which it is announced will be burned at a dangerous time, injunction may be secured. But in this, as in other matters, no civil or criminal suit should be begun or arrest made without instructions from the Forester, unless the circumstances do not admit of delay or the offender is likely to escape. Do not hesitate to use the telegraph to ask advice or report action taken to the Forester.

If private lands are in such a condition that fire is likely to spread to the Forest, and especially if operations involving dangerous or frequent use of fire are carried on by railroads, logging outfits, or sawmills, a report should be made to the Forester.

FIRE LAWS AND PENALTIES.

There is ample legal provision for the punishment of malice or carelessness with fires. The act of June 4, 1897 (Appendix, p. 214), instructs the Secretary to make provisions for the protection of the National Forests against fire, and provides for the punishment of any violation of his regulations. The act of May 5, 1900 (Appendix, p. 253), prescribes a maximum fine of \$5,000, or two years' imprisonment, or both, for any person convicted of the willful setting of a fire on the public domain or for suffering a fire to burn unattended near any inflammable material. It prescribes a fine of \$1,000, or one years' imprisonment, or both, for building a fire and leaving it before it is totally extinguished. Any officer of the Forest Service may arrest violators of these laws.

The United States, having all of the remedies of a private citizen, can bring a civil suit under the State laws to recover for loss by fire. Forest officers should report to the Forester all

cases of fire trespass in detail. They should not content themselves with mere inquiry, but should secure affidavits as soon after the fire as possible from eyewitnesses and from others whose information might lead to the establishment of the case for the Government.

The State criminal laws regarding fire are often adequate, and in certain cases criminal prosecution under the State laws may be necessary. Such prosecutions must be conducted in the State courts. Proof in criminal cases must be very specific. Great care should be taken to collect evidence by affidavit, not only to secure evidence to convict, but rebutting evidence to possible excuses of the malefactor.

No proceeding should be taken in a State court except under the instructions of the Forester.

PATROL.

Each supervisor is responsible for the division of his Forest into patrol districts and the assignment of a suitable patrol force to each district.

Rangers and guards must use every possible effort to extinguish every fire of which they have knowledge, and must immediately investigate every one of which they are informed. If the Forest officer can not put it out alone, he must get help. The fact that it may not be in his district has no bearing, unless he is certain another ranger is there already.

Rangers on fire-patrol duty should avoid spending time in places or along routes where there is little danger or small outlook. A clean fire record rather than hours spent or miles ridden is the best indication of efficient patrol. Often a short trip to a commanding point is better than a long ride through a wooded valley. During dry and dangerous periods the selection of headquarters, camping places, and routes should be made with the single object of preventing and discovering fires. It is often necessary for a ranger to be detailed to patrol certain much-used trails or roads by which parties enter the mountains.

Fires caused by lightning are not rare, especially in dry mountain regions. After every electric storm a special effort should be made to locate and extinguish any such fires before they are well under way.

HOW TO FIGHT FIRE.

When once a fire has spread over an acre or more, especially where much dead and down timber makes it very hot, it may be so far beyond the control of one man that it is best to leave it and get help. The character and condition of the woods, the weather, the prevailing winds, and even the time of day have so much to do with such cases that general directions have little value, and all depends upon the experience and good judgment of the ranger.

Generally the best tools for fighting fire are the shovel, mattock, and ax. The ranger should always carry at least an ax during all the dangerous season.

In a damp, heavy forest, fire usually travels slowly, and a few men, if persistent, can keep it in check by trenching, even though they may not extinguish it, and must continue the watch until rain falls. In dry, open woods fire travels faster, and it is often best to go some distance to open ground and back fire from there. In handling back fires great care is needed to avoid useless burning; therefore they should never be set except by Forest officers, unless in great emergencies.

The night or the early morning is the best time to work, whenever any choice exists, for nearly all forest fires die down, more or less, during the cool of the night and flare up again during the heat of the day.

Following are several general principles to be borne in mind:

Protect the valuable timber rather than the brush or waste.

Never leave a fire, unless driven away, until it is entirely out.

Young saplings suffer more than old mature timber.

A surface fire in open woods, though not dangerous to old timber, does great harm by killing seedlings.

A fire rushes uphill, crosses a crest slowly, and is more or less checked in traveling down. Therefore, if possible, use the crest of the ridge and the bottom as lines of attack.

A good trail, a road, a stream, an open park check the fire. Use them whenever possible.

Damp or even dry sand or earth thrown on a fire is usually as effective as water and easier to get.

ACTION AND REPORT.

Small fires, extinguished without difficulty by the officer who discovers them, may be reported to the supervisor at the end of the month. He should be notified at once of large ones which require help from residents or other rangers, purchase of supplies, or attendance for several days. But if help is needed, the Forest officer on the ground should get it at once. He should hire men and messengers, if necessary, send for supplies, and notify the supervisor of the action taken. The supervisor will furnish any further help needed, and telegraph the Forester if an amount in excess of \$300 is required. He will also notify the Forester as soon as the total cost of any fire requiring extra help and expense is ascertained.

In reporting upon fires three classes should be distinguished, as follows:

A. Camp fires and other small fires covering not more than a few square rods.

B. Small forest fires, extinguished without any extra help or expense, and generally not covering over 5 acres.

C. Large fires, requiring extra help and expense.

On the last day of each month every ranger and guard will fill out his monthly fire report on Form 944, using a separate column for each fire, or, if such is the case, writing "No fires on District ——— during ———, 190—." In case of large Class C fires, the ranger should supplement his monthly report form with a letter. The report on Form 944 should be accompanied by a township plat or plats (Form 974) on which the burned-over areas are shown in red by the use of a colored pencil. If more than one fire is reported, each should be given a number, which should appear on the corresponding area on the map sheet. Before filing in the supervisor's office, the fire report and the accompanying map sheet or sheets should be securely fastened together. The data on the location of burned-over areas should be transcribed to the working map to be kept in each supervisor's office.

On January 1 of each year the supervisor should submit an annual report on fires, which should cover the twelve months ending November 30. This report should be accompanied by a small scale map of the Forest, showing the location of all areas burned over during the year. This data will be secured from the map submitted in connection with the ranger's report on Form 944.

EXPENDITURES FOR FIGHTING FIRE.

Every supervisor is authorized, in person or through a subordinate, to hire temporary men, purchase tools and supplies, and pay for their transportation from place to place to extinguish a fire. No expense for fighting a fire outside a Forest must be incurred unless the fire threatens it.

The cost of fire fighting, when properly entered on Form 99, will not be charged against the supervisor's letter of authorization for general expenses, but will be paid from an allotment reserved by the Forester for that purpose.

To promote willing assistance, in every possible instance the supervisor should, when practicable, pay the extra labor in cash on the ground immediately after the fire is extinguished. Reimbursement for such expenses will be made in accordance with the instructions in the Green Book.

When the supervisor finds it impossible to pay these emergency assistants in cash, Form 143 may be used, as explained in the Green Book. If there is any delay, the reason for it should be carefully explained to the men.

Fire fighters should be paid by the hour, actual working time, at the current local rates. The time consumed in going to and from the fire may be included.

While the Forest Service is anxious to prevent and fight fires only a limited amount of money can be devoted to this purpose. Experience has proved that usually a reasonable effort only is justified, and that a fire which can not be controlled by from 20 to 40 men will run away from 100 or even more men, since heat and smoke in such cases make a direct fight impossible.

Extravagant expenditures will not be tolerated. Fires are sometimes started for the sake of a job. In and about every Forest it is possible to enlist the cooperation of the better citizens, so that in time of need enough men of the right kind will be on hand. A crowd of men hastily gathered about a town, without organization, interest, or experience, is valuable only as a last resort.

PROTECTION AGAINST TRESPASS.

CIVIL ACTION.

The United States has all the civil rights and remedies for trespass possessed by private individuals.

If any Forest officer discovers a trespass he will notify the trespasser, if possible in the presence of a witness, to discontinue the trespass, and note the hour, day, and place of notice. *He will also report the facts immediately to the supervisor on*

Form 856, and when danger of removal or destruction is imminent, will seize all timber and other Government property wrongfully taken, and, if necessary, arrest the offender.

The right of seizure, or, more correctly speaking, of recaption, is the right of a person to retake his property in a peaceable manner wherever he finds it. Since the United States has the same common-law rights and remedies as a private individual, it follows that the Government and its agents have the same right of recaption as an individual. Forest officers may, without special instructions, seize timber and other National Forest property wherever found, even though found upon patented land, whenever it can be done peaceably and is necessary to prevent its being sold or destroyed. When a civil suit has been instituted and a case is in the hands of the Department of Justice, Forest officers should make seizures only under instructions of the Forester, except in cases in which an immediate seizure is necessary to protect the Government from loss. In general, no seizure should be made while civil suit is pending, since the United States, having the choice of recaption or suit in the courts of law, has chosen the latter.

Timber may be seized, although manufactured into lumber and in the hands of an innocent purchaser.

Buildings and other improvements upon Government or patented land, erected from timber cut in trespass from Government land, should not be seized, unless by instruction of the Forester, since, in a permanent improvement of this nature, there is no need of immediate action until the full facts have been investigated.

Timber and other property which does not belong to the Government should not be seized, whether upon patented or upon Government land. The only exception to this rule is where a trespasser wrongfully mingles timber and other property of the Government with that of his own, in which case either the whole property may be seized, and held until the amount taken from Government land is ascertained, or if the amount taken from Government land is known, the Forest Officer may seize an equal amount of the combined property.

Supervisors will report all cases of trespass to the Forester, on Form 856, setting forth the damage done or threatened, including the actual expense incurred in investigating the trespass. If the trespass is committed under color of a claim, report should at the same time be made upon the claim, using the proper form. If an offer of settlement is not made or is not accepted, and the damage seems sufficient to warrant a recommendation by the supervisor that civil action be brought, the Department of Justice will be requested by the Forester to institute suit against the trespasser. Thereafter the supervisor will do all in his power to collect evidence for and assist the district attorney in the prosecution of the suit, and promptly inform the Forester of each step in the case. Forest officers may administer oaths in securing testimony.

Injunction.—When facts reported by a Forest officer make it advisable, the Forester will seek an injunction to restrain trespass on National Forests.

Damages.—Civil action may be brought to recover damages caused by any trespass or breach of contract, in addition to criminal action.

Compromise.—The Secretary of Agriculture has no power to compromise criminal cases, and a proposition of settlement, submitted with the understanding that if accepted criminal proceedings for the trespass will be waived, will be rejected.

Settlement.—The Secretary of Agriculture has power to settle with any trespasser for the actual civil damages.

Forest officers will notify trespassers that they may make, upon Form 653, offers of settlement to accompany the trespass reports, but no such offer will be considered unless the amount offered in settlement is remitted by postal or express money order or national-bank draft on New York to the Fiscal Agent, Forest Service, Washington, D. C. (Reg. 75.)

Punitive damages.—When trespass can be shown to be malicious or due to such negligence as implies malice or a reckless indifference to the rights of the Government, especially when a person trespasses after notice, punitive damages may be recovered, although the act constitutes an offense punishable under the criminal statutes.

CRIMINAL ACTION.

The violation of any regulation made by the Secretary of Agriculture to regulate the occupancy and use of the National Forests and preserve the forests thereon from destruction is a crime punishable by a fine of \$500, or imprisonment for one year, or both. (Appendix, p. 252.) These regulations are distributed throughout this book in the order of their subject-matter. Notices of certain statutes specifically penalizing certain acts in National Forests are distributed throughout this book in the same manner.

Arrest.—All Forest officers have power to arrest without warrant any person whom they discover in the act of violating the National Forest laws and regulations, or to secure a warrant from a United States commissioner, or, if one is not convenient, from a justice of the peace, and use it as the visible sign of the right to arrest, and also to arrest for any such violation on a warrant obtained by any competent person. (Appendix, p. 255.)

All Forest officers are directed to be vigilant in discovering violations of National Forest laws and regulations and diligent in arresting offenders, either on a warrant secured from a United States commissioner of the district or a justice of the peace, or

without such warrant when the offender is taken in the act of violating any provision of Regulation 64, or any criminal law relating to National Forests. Unless, however, the trespass threatens damage to the Forest or interference with its management, or the offender is likely to escape, no arrest should be made, or other step taken to institute any criminal or civil suit, until a report of the trespass, with signed statements from the witnesses, has been sent to the Forester, in order that he may give appropriate instructions.

Any Forest officer making an arrest must, as soon as practicable, take the offender before the nearest United States commissioner, and thereafter stand ready to carry out any mandate of the commissioner relative to the custody of the prisoner. He will also at once inform the supervisor within whose jurisdiction the offense was committed. It is the duty of each supervisor to inform the district attorney promptly of any such arrest, and to render him the fullest assistance in collecting evidence. Each supervisor will also keep the Forester fully informed of each arrest and of further steps in the prosecution.

When a Forest officer makes an arrest he will be reimbursed for the necessary expense incident to such arrest. When such expenses are incurred by a ranger he will be reimbursed through the supervisor.

PROTECTION OF GOVERNMENT PROPERTY.

REG. 81. The following acts within National Forests are forbidden:

(a) Willful destruction of or damage to any property belonging to or used by the United States for National Forest purposes.

(b) The willful tearing down or defacing of any notice of the Forest Service.

FOREST PLANTING.**IN GENERAL.**

As a result of severe forest fires and destructive lumbering there are several million acres in the National Forests which have been denuded. Wherever there is no possibility of the natural reseeding of this land within a reasonable time, it is the purpose of the Forest Service to restore it to a state of productiveness by forest planting, and thus renew as soon as possible the ability of extensive watersheds to control and regulate stream flow.

Planting operations of the Forest Service are at present centered in planting stations within or near National Forests. With trees grown at these stations, planting is carried out on important watersheds of near-by Forests, and plant material is distributed to other Forests in the region for experimental planting. A few small nurseries are maintained on certain Forests to grow trees for special experiments.

On Forests where conditions favor reforestation by direct seeding, experiments are being carried out to determine its feasibility.

Planting will be confined chiefly to those watersheds where a forest cover is necessary to conserve the water supply of adjacent towns and cities.

The object of experimental planting is to ascertain in advance the proper size of nursery stock to use under different conditions, and the best seasons and methods for planting. These experiments are being made on as many of the Forests as possible where there is need for reforestation.

FIVE-YEAR PLANS.

In order to carry out the work systematically and to keep an accurate record of results, plans for planting or seeding for each Forest where such work is needed will be prepared for five-year periods. Each year before the time for distribution of trees from planting stations, supervisors of Forests on which five-year plans are in effect should report to the Forester any changes which seem advisable in—

The location and area of the planting sites.

The species and number of trees required each year.

The estimated cost of planting for the coming year.

PLANTING INSTRUCTIONS.

Forest officers who superintend the planting of trees shipped to Forests from planting stations should be guided by the following instructions:

Preliminary care.—As soon as a shipment of trees is received, they should be examined to ascertain their condition. If the covering around the roots is dry, it should be moistened at once. The trees should then be put in a cool shady place, if they can not be moved to the planting sites and heeled in at once.

Heeling in.—At the first opportunity the trees should be removed from the bundles and heeled in, on or near the planting sites. A cool shaded situation should be selected, with a moist soil fairly free from rock and coarse gravel. A trench should be dug, from 10 to 15 inches deep, with one side slightly sloping. The trees should then be spread along the sloping side, not more than two or three deep, with the foliage and a short length of stem above the ground surface. To insure uniformity in covering, the roots should be well straightened out and evenly placed in the trench. The earth should be packed firmly about the roots, and if it is not sufficiently moist, water should be applied at once and as frequently afterwards as necessary. Other layers of trees may be set parallel to the first row, but there must be at least 4 inches of earth be-

tween the rows. If the tops are exposed to intense sunlight, they should be shaded with brush or sacking.

Spacing depends upon the species, character of the planting site, probable percentage of trees that will live, etc. Four by 4 feet to 6 by 6 feet are the spacings generally used. The roughness of the planting site will often prevent regular spacing, but as much uniformity as possible should be secured.

Planting.—Planting should usually be done in the spring just before growth begins. In regions where there is a rainy and dry season, planting should be done at the beginning of the rainy season, as soon as the soil is sufficiently wet and there is a reasonable probability that it will remain so.

Holes for planting can best be dug with a mattock. The size and depth should be governed by the size of the trees. The planter should carry a trowel and a bundle of trees, keeping the roots from drying out by carrying them in a wet cloth or pail of water. The trees should be set slightly deeper than they stood in the nursery, and the roots should be well spread out in the holes. The roots should be kept damp at all times, and only moist soil should be placed directly upon them. Great care should be taken to pack the earth closely about the roots.

Protection.—The planted areas should be protected from fire and stock as thoroughly as possible without excessive expense.

Marking plantations.—All planting areas should be clearly marked by blazing near-by trees or by setting substantial posts, or by erecting piles of stone. The boundaries of each area that will be treated as one plantation should have the boundary trees or posts inscribed P 1, 2, or 3, according to the number of the plantation. The part of the area that is planted the first year should be marked off by stakes inscribed A. The next year's planting should be marked B, the next C, and so on alphabetically. The plantations should be carefully examined each summer to furnish data for reports.

A limited amount of nursery stock for planting on private land within National Forests may be secured from planting stations by making application to the

supervisor. Stock is furnished only to residents in or near the National Forests who will agree to plant it on private or Government land within the National Forest, and for watershed improvement only.

Requests from individuals for nursery stock, in case less than 1,000 trees are desired, may be granted by the supervisor. Requests for 1,000 or more plants should be referred, with recommendations, to the Forester.

TIMBER-TREATING PLANTS.

Small experimental treating plants are constructed and operated on or near certain of the National Forests where they would greatly increase the use and value of the available supply of timber. The object of such plants is to show how far preservative treatments are practicable for the class of timber at hand, and to ascertain the cheapest efficient preservatives and processes which may be used. The design of the plants varies on different Forests. Some are constructed especially for the treatment of telephone poles; others for ties, fence posts, or other timbers.

The conditions which make the establishment of such plants advisable are: (1) A demand for considerable quantities of durable timber; (2) an abundant supply of dead or inferior timber on the National Forest, combined with a scarcity of the better classes of wood; (3) the willingness of consumers to cooperate in the treatments by contributing money, labor, or preservatives, or in other useful ways.

Recommendation for the establishment of a treating plant on or in connection with a National Forest should be made to the

Forester by the supervisor or inspector. The recommendation should be accompanied by a full description of the conditions which make preservative treatments desirable, and by a statement of the terms of cooperation offered by timber users.

WOOD UTILIZATION LABORATORIES.

Wood utilization laboratories of the Forest Service are located at the University of Washington, Seattle, Wash.; the University of California, Berkeley, Cal.; and the University of Colorado, Boulder, Colo., and cooperate respectively with Forest officers in districts 1 and 6, 4 and 5, and 2 and 3. They work upon the problems encountered in utilizing National Forest timbers. When necessary, laboratory work will be supplemented by field studies.

The Forest Service undertakes tests along any of the following lines which may assist in more completely utilizing the timber of the National Forests:

- (1) To determine the strength, toughness, and other properties of wood, and the influence of such factors as rate of growth, knots, checks, red heart, etc., on these properties.

- (2) To determine the best methods of seasoning different woods.

- (3) To determine the suitability of different woods for the manufacture of paper pulp.

- (4) To determine for any wood the valuable chemical products which may at present be wasted, such as tannin, turpentine, and wood alcohol.

Statistical information is collected regarding the production and consumption of forest products and on lumber prices and

movements. Reports based upon the information received will be furnished periodically to Forest officers. In order that this information may be accurate and useful, Forest officers will cooperate in every way possible with the men detailed to this work.

PERMANENT IMPROVEMENTS.

The construction on the National Forests of suitable headquarters for the field force, the completion of a good system of communication, the building of fences, corrals, and other works for the control of grazing are of great and immediate importance. Supervisors should study the present and future conditions on their Forests with the greatest care before submitting plans and estimates, since the improvements when once constructed can not be changed without great trouble and additional expense.

Each piece of trail, road, telephone line, fence, fire line, and each bridge, cabin, corral, or other improvement should be treated as a separate case and designated by some appropriate name. The Forester will pass upon the recommendations, and if they are approved, authorize their construction and allot a sum of money to cover the necessary expenses.

If a supervisor finds his estimate or the sum allotted for the work is insufficient to complete it, a full report on the subject should be made to the Forester, and if possible a further sum will be provided. As soon as any project is completed, the supervisor should so report to the Forester, giving the exact cost in detail, including ranger labor.

All brush and other *débris* resulting from the construction of roads, trails, bridges, and telephone lines should be handled in the same manner as that resulting from logging.

The reports and estimates on the various improvements should be prepared in accordance with the instructions which follow.

ROADS.

To make the resources of the National Forests accessible and to protect them, the Forest Service hopes

eventually, with the cooperation of the local authorities, to build a complete system of free roads and trails through each Forest.

The Forest Service is not only willing but anxious to cooperate in the construction and maintenance of roads, trails, and bridges within the National Forests.

Any community which desires to take advantage of this offer should communicate with the Forest officer in charge through the supervisor.

The supervisor will transmit the request to the Forester in a report covering the following points: Location and length of the road, width of roadway, and proposed maximum grade; advantages to be gained and necessity of construction; number and class of residents benefited; exactly what the local residents or county will contribute toward its construction and maintenance in money, labor, tools, powder, or construction material; definite recommendations as to what action should be taken by the Forest Service.

A detailed estimate of cost to the Forest Service covering the following points (this outline should also be followed in reporting on roads to be built entirely by the Forest Service):

Cost of survey. Unless it is certain that a good grade can be had, a survey should be made of the route. What the survey will cost will depend upon whether it is necessary to run more than one line or not, and whether or not there is much brush.

Cost per mile for clearing the right of way for the road.

Cost per mile for grading. This will involve a thorough knowledge of the country through which the road will pass, and can only be obtained by a thorough inspection of the route. The character of the soil should be carefully noted in addition to the slope, size of openings necessary for waterways, and approximate location of turn-outs. Bear in mind that there is a vast difference in the cost of grading in earth and in solid rock, the former costing from 16 to 25 cents per cubic yard, while the latter will cost from 80 cents to \$1.50 per cubic yard, depending in a great measure upon the labor employed.

Under this head will come also the cost of turn-outs, retaining walls, side ditches, and all other items pertaining to the roadbed.

Cost per mile for culverts and other small waterways. With the necessary size noted it is an easy matter to estimate the cost of each culvert and bridge.

Cost of powder, tools, and other supplies.

TRAILS.

There is urgent need of more and better trails on most of the National Forests. They are of capital importance, because they are not only the best insurance against fire, but one of the chief means by which the Forests can be seen and used.

A general system or scheme of trails for the whole Forest should first be carefully thought out and decided upon, and those of the greatest immediate importance for protection and patrol should be built first. Trails urgently needed may be made good enough for ordinary saddle-horse or pack-train travel at once, with a view to improvement and permanence later on.

The most important part of trail work, and that for which the supervisor will be held directly responsible, is the preliminary location of the line and grade. The location of a trail should always begin from the summit which is to be reached or crossed by it, and the line should be located toward the foot of the grade. Location from the bottom toward the top should never be attempted. Construction work should not begin until satisfied that the best route has been selected.

The maximum grade of all Forest trails should be 20 per cent, unless the expense of keeping within this limit is absolutely prohibitive. When it is found necessary to build switch backs, the turns should be level and wide enough to give plenty of room for a loaded pack animal.

Logs, snags, brush, or limbs that require turn-outs on a traveled trail will be considered as marks of inefficiency on the part of the ranger in whose district they are found.

Trails through timber should be well blazed. The Forest Service has adopted a distinctive blaze for trails on the Forests, consisting of a blaze at breastheight, with a notch above, which should be used in all future work. For the benefit of the traveling public, all Forest trails should be equipped with signboards stating the name of the trail, its destination, and the distance in each direction to its terminal points.

BRIDGES.

Bridges should be built only where fording is impracticable, but when they are necessary should be strong enough and placed so far above extreme high water that there will be no danger of their being washed out. Rod iron and sawed lumber should not be used wherever suitable logs can be obtained from Forest timber.

In making reports on proposed bridges, give the length between supports, height, kind and cost of piers or supports for bridge ends, cost of cutting and hauling timber, cost of placing timber in the bridge, and cost of nails, bolts, and other iron. The use to be made of the bridge and the traffic it is designed to carry should also be stated.

TELEPHONE LINES.

Telephone lines may be constructed in National Forests under special-use permits, and the Forest Service will encourage and cooperate in their construction.

Arrangements will be made as rapidly as possible to construct telephone lines to connect the supervisor's headquarters with rangers' headquarters and lookout stations, so that fires may be reported and other business of the Forest conducted expeditiously.

Cooperation will not be accepted unless those who wish to cooperate will contribute a considerable part of the cost of the line. The use of all Service telephone

lines and instruments will be free to the public unless the free use should become burdensome to the Forest officers or interfere with the efficiency of the system for Service use. The excessive use of instruments not only seriously impairs their efficiency, but is detrimental to the prompt transaction of Service business.

The number of telephones that can be allowed on the lines is of necessity limited. The Service will permit the connection of private instruments only when they are so located as to be of assistance to the Forest officers in the performance of their regular duties, or are placed in the houses of persons who will act as lookouts for forest fires, or are to be used by persons who have co-operated in building the line. The length of the line, size of wire, and manner of construction will determine the number of instruments allowable. When for any reason private telephones are allowed on lines constructed entirely by the Forest Service the following points should be observed:

Application forms for such instruments must be approved by the Forester. If granted, a reasonable charge will be made.

The right to connect with the Forest Service line does not give the subscriber the right to use the exchange of any commercial company with which this line may connect. If it is desired to use the exchange, arrangements must be made by the subscriber with the owners of the exchange.

Toll will be collected from subscribers and others for the use of those Forest Service lines over which free service is not granted.

Persons having instruments connected with Forest Service lines must agree to the following conditions:

To immediately repair any breaks or remove any cause of trouble occurring on their lines; that is, that part of the lines from their instruments to the Forest Service line. To disconnect their lines from the Forest Service line during any period exceeding one week in length when their houses are not occupied. To permit Forest officers to use their instruments and lines free of charge, and to allow Government business to have precedence over all private business. To install a telephone instrument, to be approved by the Forest officer, of such make and construction as not to interfere with the best operation of the Forest Service line.

When it is necessary to construct lines across other than Government lands, right of way should be obtained from the owners of the land on a form which can be obtained from the Forester.

The supervisor will, in his recommendations for telephone lines within his Forest, report on the following points:

The length of the lines it is recommended to build during the year covered by the estimate, and the suggested extension of these lines during the year following.

The distance between towns, settlers' houses, rangers' headquarters, and lookout points to be touched by the recommended line, and the number and location of instruments to be installed.

The kind, quality, and height of the timber available for poles along the proposed route, noting distances which poles will have to be hauled to the line.

If cooperative work, exactly what will be contributed toward its construction and maintenance in money, labor, tools, or construction material.

When possible, a map of the proposed route, showing the private telephone lines, towns, settlers' houses, rangers' headquarters, lookout points, rivers, creeks, canyons, mountains, ridges, roads and trails, and railroads, with their relative elevations, should be prepared and submitted with the estimate.

Definite recommendations as to what action should be taken by the Forest Service.

The detailed estimates of the cost of each proposed line should cover the following points: Cost of survey, if necessary. Cost per mile for clearing the right of way for the telephone line. Cutting poles. Hauling poles, including distribution. Treating poles with preservatives; this can be estimated at 15 cents per pole. Digging holes; particular care should be taken in making this estimate, as the cost of digging in solid rock, cemented gravel, or hardpan is much more than in earth; in earth the holes will cost about 20 cents each; in the other materials much more; where powder will be used this can be estimated separately or included in the cost of digging. Erecting poles; the average price is 20 cents per pole. Stringing the wire; the average cost is \$5 per mile for ground lines, and \$8 per mile for metallic circuit. Cost of wire, brackets, and insulators at shipping points. Cost of hauling material from railroad to point where it will be used. Number and cost of instruments, allowing one instrument at each Forest officer's headquarters, at lookout stations, and at other necessary points; the average cost, including freight, will be about \$13 each. In making estimate allow for enough extra wire, insulators, and brackets to enable each Forest officer's headquarters to have a small supply on hand for repairs.

DRIFT FENCES.

It is desired that Forest officers consider the need for drift, division, or boundary fences on the National Forests, and in all cases where the construction of such fences would be advantageous in controlling stock grazed under permit, or in the prevention of trespass, a report and recommendation including *a map showing the location of the fences, and a definite estimate of their probable cost* should be submitted to the Forester.

CLEARING STREAMS FOR LOG DRIVING.

Where this class of work is necessary, the distance to be cleared and the average width of the stream should be stated, and an estimate of the cost, covering the following points, should be sent to the Forester: Removing rock obstruction; building dams, if needed; building new channels to cut off bends, increase the rapidity of the current, or deepen the channel; necessary clearing on each side of the stream; removing log jams; powder, tools, and other supplies.

FIRE LINES.

On a number of the Forests fire lines must be constructed as a protection against disastrous fires. Where this is done to protect the direct water supply of adjacent towns, cities, or ranches, or the range of permitted stock, the cooperation of the interested residents is earnestly requested.

Range fire lines, or lines through open mature timber on easy ground may be cheaply constructed by plowing four or five furrows on each side of a strip 4 rods wide and burning out the intervening strip when conditions render it safe. Lines through chaparral or heavy underbrush should usually be 30 feet wide, cleaned out with an ax, mattock, and brush hook, and the stumps of all strong-sprouting species, such as scrub oak, grubbed out.

RANGERS' HEADQUARTERS.

Eventually all the rangers who serve the year round will be furnished with comfortable headquarters. It is the intention of the Forest Service to erect the necessary buildings as rapidly as funds will permit. Usually they should be built of logs with shingle or shake roofs.

Dwellings should be of sufficient size to afford comfortable living accommodations to the family of the officer. He will be held responsible for the proper care of the buildings and the grounds

surrounding them. It is impossible to insist on proper care of camps if the Forest officers themselves do not keep their homes as models of neatness.

Rangers' headquarters should be located where there is enough agricultural land for a small field and suitable pasture land for a few head of horses and a cow or two, in order to decrease the often excessive expense for vegetables and feed. The amount of agricultural land necessary to supply a ranger's family with vegetables and to raise hay and grain enough to winter his saddle and other stock will vary, as a general rule, from 10 to 40 acres.

Pastures should be of sufficient size to support the stock necessary for the ranger's use. They will vary in size, according to the quality of the feed, from 40 to 200 acres. A two or three wire fence strung on posts or trees 30 feet apart will, in most cases, be sufficient to protect these pastures from range stock.

FENCES, CORRALS, TANKS, WELLS, AND WINDMILLS.

Whenever fences, corrals, tanks, wells, windmills, or any other improvements are needed in order to better control the grazing of stock on the Forests, or to open to grazing areas heretofore unused on account of the lack of water, the supervisor should report to the Forester. The report should give the location, state the conditions which render the construction of the work advisable, and give a detailed estimate of the cost.

MARKING NATIONAL FOREST BOUNDARIES.

For the benefit of the public and for the protection of the Forests, Forest officers will do their utmost to see that all boundaries are established and clearly marked.

All supervisors will be supplied with boundary posters, and with stamps and ink for filling the spaces left on each poster for the name of the Forest and boundary on which the notice is posted. They will see that the Forest limits are kept amply *marked, not only* at the entrance of trails and roads, but *at frequent intervals* along the entire boundary where any entrance *is probable*. There should be at least one notice to each quarter

where grazing or timber trespass is likely to occur, and the fire line, where it runs through timber, should be plainly marked with fore-and-aft blazes with two notches above to distinguish them from trail blazes. Each blaze should be stamped the center with the United States marking hatchet. None of these marks should be used, however, until the lines are finally fixed and approved.

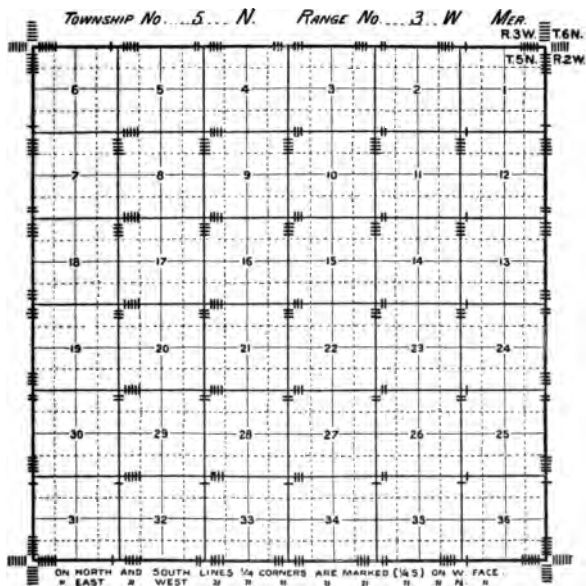


FIG. 1.—System of notching corners.

Every notice posted must bear the name of the Forest and proper boundary. Where the Forest officers can not locate boundaries of a Forest with sufficient accuracy, or the lines interior claims or holdings of any kind, the Forester should be informed in order either that surveys may be made by the United States Geological Survey, or that the lines may be traced by the Forest Service.

The boundaries of interior holdings should be marked in accordance with the blazes used by the Department of the Interior. (See Regulations of General Land Office governing survey of public lands.)

Whenever a Forest officer finds an old survey corner, either on the boundary or inside the Forest, which is in danger of becoming obliterated, he should take time to reenforce it properly.

Destroying, defacing, changing, or moving any corner, meander post, monument, or bench mark, or cutting down any blazed line or witness tree on any Government line of survey is prohibited by specific act of Congress. (Appendix, p. 249:)

SURVEYS WITHIN NATIONAL FORESTS.

The act of March 3, 1899, makes the surveying of National Forest lands identical, in all but the establishing of boundaries, with that of the public domain. Where survey to permit the patenting of valid claims is desired, application should be made to surveyors-general, and action thereon will be governed by the usual considerations.

(For special surveys allowed in the National Forests see Appendix, p. 242.)

SUPERVISORS' OFFICES.

Each supervisor's office should be equipped with a sign, for example: "U. S. Department of Agriculture, Forest Service, Office of Sierra National Forest." Request for authority to rent an office must describe the location and condition of the building and the rooms, and give in detail what is secured with the office, as light, heat, telephone, or janitor service. The danger from fire should be carefully considered and reported upon. In every case a lease will be prepared in the

Washington office for execution by the lessor. Supervisors must never occupy an office that is furnished rent free by a company or individual.

FOREST LIBRARY.

To aid in the work of Forest officers, supervisors' offices are being provided with small libraries of books on forestry and allied subjects. In addition, all available Government publications of interest will be sent to any member of the Forest Service free of charge, on application to the Forester.

In order that rangers may be made more familiar with the books in the field libraries, each supervisor is instructed to send in succession all the books in his library to each ranger, for his inspection or perusal.

Before starting a book on its rounds, the names of all the rangers who are to use it should be entered on the charge card found in the pocket on the inside of the back cover. The book should then be sent to the ranger whose name comes first on the card, to be returned to the supervisor's office when he is through with it. The card should be kept on file by the supervisor, in order that he may know where the book is. As soon as the book is returned by the first borrower, it should be sent to the man whose name comes next on the list. The book should be kept in circulation in this way until every ranger has had a chance to see it.

EXPENDITURES AND SUPPLIES.

All payments for expenses incurred in the administration of the National Forests must be in accordance with the acts of Congress making appropriations for the purpose, the Fiscal Regulations of the Department of Agriculture, and the instructions in the Green Book of the Forest Service. Detailed instructions for the custody and use of supplies are contained in the Green Book, a copy of which should be in the hands of every Forest officer.

Supervisors are given authority to expend fixed amounts for the administration of their Forests. Liability must not be incurred in excess of allotments without written authority from the Forester. Separate allotments are made for: Salaries, general expenses, permanent improvements. A separate account of expenditures under each of these allotments will be kept in the journal of expenses. Transfers from one allotment to another will not be made except by written authority of the Forester. Accounts should be kept in accordance with instructions in the journal of expenses, and on the back of Form 99. A separate account of all expenditures from the improvement fund should be kept in the project ledger. Transfers of funds from one authorized project of improvement work to another authorized project may be made by the supervisor, but the Forester should in all such cases be promptly notified in order that the proper entry may be made on the card records in the office of engineering.

The salaries of rangers while engaged on improvement projects, for which the supervisor has been given a specific authorization from the improvement fund, will, when proper entry is made on the pay roll and Form 99, be charged against the authorization for these projects, rather than against the allotment for salaries. These entries will be based upon the reports submitted by the rangers on Form 347 accompanying the monthly Service reports.

Standard articles of equipment and supplies will be furnished from the Forest Service supply depot, Ogden, Utah, to National Forest officers and to men at field stations in the West. Requisitions on revised Form 668 should be sent directly to the supply depot.

RECORDS.

RANGERS' RECORDS.

All rangers and guards, in addition to recording the necessary information and reports upon the regular blank forms for free use, timber sales, supervision of cutting, fire, etc., are required to keep a diary of the Forest work or business upon

which they have been engaged each day. The regular field notebook may be used for this purpose.

A brief but comprehensive summary of what was done each day should be given on Form 874—2 and 3 of the ranger's notebook. If patrol was performed, the exact country ridden over and the miscellaneous work done should be stated; also whether any fires were discovered or extinguished. If scaling was done, the sale and the amount scaled should be designated. The names of people with whom Forest business was transacted and the nature of the business should be given. It is not necessary to give the number of miles traveled. Above all things, a perfunctory, cut-and-dried report should be avoided.

These forms constitute the officer's service report and should be sent to the supervisor on the 1st of each month with the signed salary voucher. Willful omission in or falsification of service reports is cause for dismissal from the Service. Laborers will be reported for by the ranger to whose district they are assigned.

The monthly service report will be accompanied by a summary on Form 347 showing the distribution of service between the various classes of work and the dates employed on each improvement project.

The following is a sample of a ranger's diary correctly made out:

August 10, 1906.—Rode up Copper Creek Trail to Frog Pond Basin. Trail washed half mile below forks. S. J. Smith's cattle off their range. Drove them back over ridge. Scaled 5,345 feet bug-killed pine on J. R. Hurst's sale. Took application for agricultural lease in basin from Jack Wade. Issued F. U. permit to Mrs. Grapt for 5 cords dead fir from ridge back of her place. Fixed trail on return to camp. No fires. Wrote supervisor about Smith's cattle.

Started work 7.45 a. m.

Quit work 6.15 p. m.

Serious confusion and misunderstanding will result if supervisors and other Forest officers fail to keep a record of all telephone conversations which relate to official business. Supervisors should keep memorandums of all telephone conversations

between themselves and subordinates involving instructions, either partial or complete. Each memorandum should be dated and signed by the supervisor at the time the message is sent, and should be filed in the same manner as a carbon copy of a letter. Every Forest officer receiving instructions by telephone should enter such instructions at once in his diary, so that there may be a check from each end.

Similar memorandums should be made of all important telephone conversations with Forest users which form the basis for action or which modify current action. When such a memorandum is made by a subordinate officer, it should be in duplicate; one copy for his own files, and one copy to be forwarded immediately to the supervisor.

A memorandum relating to a specifically designated case should bear the designation of the case and should be filed with the other related papers.

SUPERVISORS' RECORDS.

Every supervisor is required to record the condition and business of his Forest under the following heads. These records furnish the basis for his reports.

Ranger service. (Card record.)

Free use of timber. (File of duplicate permits.)

Sale of timber. (Card record.)

Forest mapping and estimating. (File of correspondence and maps.)

Grazing. (Card record, correspondence, and permits.)

Claims and patents. (Reports, correspondence, and data from local land office.)

Special uses. (Card record.)

Settlement. (Card record and tract book.)

Fires. (Rangers' monthly report.)

Trespass. (Card record, correspondence, and permits.)

Miscellaneous work. (File of rangers' service reports.)

Accounts. (Supervisor's books.)

Every supervisor is required to keep a diary, in which he will record for each day of service his work and movements and the

progress and notable happenings of his Forest. This constitutes the supervisor's service report which will be examined and signed by each inspector who visits the Forest.

It is essential that the supervisor's office be equipped with accurate large-scale maps of his Forest, both for the information of Forest users and for the supervisor's records. As far as possible black and white photographic prints or lithographic prints, United States Geological Survey topographic sheets, and Land Office plats will be furnished from the Washington office on request. As fast as maps are supplied they should be used to record much of the detail of progress of timber sales and other Forest business.

THE FOREST ATLAS.

As rapidly as possible the Forest Service will furnish to Forest officers standard maps of the National Forests, showing topography, drainage, improvements, etc.

The central part of the map system is a Forest Atlas. The Atlas will aim to show all data of use in connection with the administration of the Forests. Copies of the Atlas sheets for a particular Forest, as soon as completed, will be placed in the hands of the supervisor.

Data to be recorded in the Forest Atlas will be obtained by the field force of the Service, and will usually be mapped on township plats, or Atlas sheets, following the scheme of the Forest Atlas legend page, which will be furnished to all members of the field force of the Service. The data will be transferred from these plats to the Atlas, or the township plats or sheets, where mapped with sufficient accuracy and care, will be inserted in the Atlas sheets directly.

The usual scale for the Atlas will be 1 inch to 1 mile, on which scale a standard sheet may show as much as a group of six townships. The scale may vary above or below this standard. If a smaller scale is used, as, for instance, to cover larger areas or for general maps, it is made either one-half inch to 1 mile or one-fourth inch to 1 mile. A larger scale than the standard will frequently be used. In many cases a single township

on the scale of 2 inches to 1 mile will be shown. Where necessary to show a small area in still greater detail, a scale of 4 inches to 1 mile or even 8 inches to 1 mile may be employed. Whatever the scale used it will always sustain a simple relation to the standard, as 2:1, 4:1, or 8:1, as the case may be. It can then readily be reduced to the standard.

Township plats.—Forest officers are supplied with plats of the townships included within their respective Forests. These plats are upon the uniform scale of 2 inches to 1 mile. Each plat represents a township or fractional township, and in a few cases a township plus a fractional township. The plats have been compiled from various sources and bring together, though not always perfectly, the data at hand for the area represented. So far as the topographic sheets of the Geological Survey cover an area, they have been used. Where township or section lines have been run they are shown by full lines; where not run, by dotted lines. Tracts which have been alienated—that is, are in private ownership—are indicated by line shading.

The township plats should be forwarded to rangers as needed for use in three general ways: First, to correct topography or land lines where errors exist; second, to record data for the Forest Atlas; third, to report upon any matter which can be shown graphically, even though the record is only of temporary value.

The plats will be found in error in some cases. Where errors exist they should always be corrected and the corrections forwarded to the Forester.

In recording data for the Forest Atlas the signs and symbols given on the legend page should be closely followed. If additional conditions are to be shown, any convenient symbol may be used, with an explanation on the margin. Legend pages will be sent to supervisors in sufficient numbers to supply all rangers. The data should be placed upon the plats with as much accuracy and neatness as possible. Well-drawn township maps will not be redrawn, but will be mounted directly upon the sheets of the Atlas. It should be the aim of every Forest officer to make his maps good enough to be handled in this manner.

On no Forest will all the data suggested in the legend page be of equal importance. Supervisors will decide what class of data is to be taken up first. On well-timbered Forests data relating to timber classification and sales would be most important. Distinct lines should represent the boundaries of the classifications; but since the stands of timber on each unit of area will be averaged, classification of minor differences in density of stand within an area is unnecessary. The tree species in each timber classification should be noted whenever possible. To avoid confusion, either the appropriate symbol or the common name of the species shown in the legend should be used, not the local name. On practically all Forests the improvements, special uses, and alienations should be recorded. Beginning with the most important townships and data, the Forest officers should send in the completed township plats as rapidly as their duties will permit.

The township plats may also be used in Forest work to show the location of burned areas, insect-killed timber, timber sales, trespasses, and special uses involving rights of way or tracts of land of considerable size. In fact, the plats may be used for reporting upon any matter which can be shown by map, although they may not always be desirable for small explanatory sketches sent in with correspondence.

Grazing maps.—The grazing map legend is not for use on the 1 inch to 1 mile Atlas sheets. Data relating to grazing will be drawn on a smaller scale map, which will form one page of the Atlas. It will be colored with crayons, so that alterations may easily be made when changes occur in the areas open to any kind of stock or when areas are closed against grazing.

REPORTS.

Supervisors' reports should be as concise as possible, but must give full information. Special attention should be given to recommendations.

POLICY.

Annual report due in Washington December 1, covering the following points:

Suggested changes in the Use Book.

Changes in boundaries of the Forest.

Condition of local sentiment, with recommendations for Forest policy.

These subjects should be treated on separate sheets, in order that they may be referred to the office concerned for action.

PERSONNEL.

The annual report on personnel on which the consideration of promotions in the field force will be based is due in Washington November 15. This report should be prepared in accordance with the following outline:

(1) Is the present force sufficient for the business? What work is being neglected for lack of men? To what extent do users of the Forest complain of inadequate or tardy service? What is the average area of the ranger districts? Submit a map showing the permanent ranger districts.

(2) How do the salaries of the rangers compare with those which they could earn outside the Forest Service? State approximately the average expenditure of a ranger per year for each of the following items: Lodging and subsistence, horses, horse feed, field outfit.

(3) A full report upon each member of the force.

Give name, present title, and salary, number of years' service, and date and amount of last promotion and recommendation with regard to change in title and salary. Age, physical condition, and ability to perform the work of a ranger. Occupation and salary before entering the Forest Service. Ownership or interest in land or other property upon or adjacent to a National Forest, or in cattle, horses, or sheep grazing upon or adjacent to a Forest. Standing in community and personal habits. *Past and present work in the Forest Service, with particular*

reference to ability to handle men, attitude toward other members of the Service and Forest users, industry, reliability, thoroughness, capacity to prepare reports, kind of work for which best suited.

Make the statements regarding the men as specific and as plain as possible. Omit nothing that will aid in the consideration of each individual case. Avoid general recommendations covering several men in the same grade.

ESTIMATE AND PLAN FOR ENSUING YEAR.

Estimate of administrative expenses and plan of work for the ensuing fiscal year, due in Washington February 1, covering the following points (the fiscal year begins July 1 and ends June 30) :

Salaries.—Number, grade, and salaries of men necessary for proper administration. Give estimate by months and summary.

Expenses.—For lodging, subsistence, and transportation where allowable. Purchase of equipment and supplies not obtainable by requisition. Maintenance and feed of Government teams; repairs on roads, trails, bridges, telephone lines, etc., for which money has not been specially authorized from the permanent improvement fund. Maintenance of planting stations, new equipment, improvement, and all other items connected with necessary work; planting, seed sowing, preparation of planting sites, protection of plantations, and other items of planting work. Extra labor needed for marking timber, scaling, burning brush, etc. Office rent, janitor service, light, and heat, when not included in the office rent. Telephone rent, toll charges, repairs, signs, printing, and miscellaneous expenses, not properly chargeable to any other item.

ESTIMATE FOR IMPROVEMENT WORK.

For construction and repair of headquarters and other buildings, pastures, wells, etc. Trails, roads, bridges, telephone lines, fire lines, drift fences, and corrals. Treat each project separately, in accordance with instructions under Permanent Improvements.

FIRES.

Annual report due in Washington January 1.

This report will consist of a summary of the monthly reports submitted by rangers on Form 944, and will be tabulated when practicable. Special attention should be given the question of damage due to failure of railroads or other corporations to equip their engines with suitable spark arresters.

The report will be accompanied by a small-scale map of the Forest, showing approximately the location of areas burned over during the period covered in the report. This data will be secured from the plats accompanying the reports submitted by rangers on Form 944.

In addition to this report a brief history of all large fires should be submitted in a letter to the Forester immediately after each is extinguished.

FREE-USE BUSINESS.

Annual statement for calendar year due in Washington August 1, covering the following points: Number of permits issued in each ranger district. Amount of material used, in cords, poles, posts, and house logs or sawlogs (in thousand board feet) on whole Forest. Rate per unit of measure for each class of timber and total value. Approximate area cut over under free-use permits. General statement of the manner in which the business was conducted, and recommendations for any improvement.

TECHNICAL AND SILVICAL.

At the end of each quarter the forest assistant will submit a report in duplicate on the technical Forest business to the supervisor, who will forward the duplicate to the Forester, together with any comments he wishes to make. The forest assistant will also, on April 1, submit a report on the silvical characteristics of important timber trees, in accordance with the outline furnished June 15, 1906. The report should include information upon the condition of all the cut-over areas which the forest assistant has had a chance to examine.

PLANTING.

Reports in duplicate should be submitted by assistants in charge of planting stations, on or before the dates designated, to the supervisor, who will approve and forward one copy to the Forester.

July 20: Report on seed crop of forest trees—Form 977 (revised).

December 1: Tabulated card summaries of nursery and planting operations—Forms 131, 132, 133a, 133b, 134a, 134b, 135, 145, 150, 351.

December 1: Complete annual report treating in detail of all work since the previous report, prepared according to the outline in use at planting stations.

Monthly progress report.—This report should give the essential points in the progress of the work at planting stations each month, and should reach the Forester not later than the tenth day of the following month.

The supervisor should keep on file at his office duplicates of card records and all reports dealing with planting on his Forest.

Photographs of nursery and planting work and copies of all reports and records should be kept on file at planting stations having permanent buildings and not located at supervisor's headquarters.

GRAZING.

Annual reports upon grazing business and condition of the range, to be mailed within thirty days after the close of the grazing season and not later than December 15, covering the following points:

General range conditions.—A general statement of amount of rainfall and forage as compared with other years. The condition of the range at the close of the season, and whether or not any portion of it is being injured by overgrazing. The condition of the stock at the time of entering and leaving the Forest. The market conditions in reference to the sale of stock during the season. Matters of general interest concerning the welfare of stock grazing upon the Forest.

Range divisions.—Changes desired in the division of the range into general grazing districts. The division of districts between different kinds of stock. The closing of areas against sheep, goats, cattle, or horses, for the protection of watersheds or of lands to be reforested. The construction of drift fences for the purpose of effectively dividing or protecting the range. The building of stock-watering reservoirs or the improvement of springs. The distribution of stock upon the range in reference to changes in the number allowed upon districts or divisions. The establishment of driveways and restrictions in their use.

Permit allotments.—Report on the general plan adopted in the approval of grazing applications. The necessity of any special rules in reference to the allotment of grazing. The establishment of protective limits for the benefit of small owners or of maximum limits to prevent range monopoly.

Protection and improvement.—Losses of stock from eating poisonous plants and the need for scientific investigations or the construction of fences to remedy the evil. The need for the appointment of guards or rangers as hunters to exterminate predatory wild animals preying upon live stock. The destruction of forage by prairie dogs and need for their extermination. Improvement or deterioration in annual forage crop and need for scientific investigation to determine a practical means of reseeding the range.

Live-stock associations.—The cooperation of associations, through their advisory boards or otherwise, in matters pertaining to range management. Methods used in settling controversies and adjusting range disputes.

Grazing map.—A map showing the range divisions and driveways within the Forest and indicating changes recommended; also showing areas closed or to be closed against grazing any class of stock and areas which have been badly overgrazed.

Recommendations.—Increase or decrease in the number of stock to be grazed on the Forest during the coming season. The distribution of the stock between districts. The period during which grazing should be allowed in different portions of

the Forest and for different classes of stock. The prices to be charged for grazing each class of stock. Special rules to meet local conditions.

DISTRIBUTION OF RANGER SERVICE.

Annual report, due November 1, showing the total number of days devoted by the ranger force of each Forest to each class of work during the preceding fiscal year. This report will be in the form of a summary of the reports made by the rangers on Form 347.

CORRESPONDENCE.

To facilitate filing, every letter or report from a Forest officer should contain but one subject. Every application, sale, privilege, trespass, improvement, or other transaction identified by an individual name or number must be treated separately.

Upon each letter written by a supervisor to the Forester will appear, above the date line, the name of the Forest of which the supervisor is in charge. Suitable stamps will be furnished on requisition. All letters and telegrams should be stamped with the date of receipt. The rubber stamp furnished for this purpose contains space in which should be written the date of reply.

Never write a letter of transmittal in forwarding any document unless some special statement about it is needed. Indorse the document "Respectfully forwarded to the Forester," add your recommendation, if any is required, sign, and mail, addressing only "The Forester, Forest Service, Washington, D. C."

All letters written to the Forester on the same day will be mailed in one envelope. A special desk basket will be set apart, in which all mail intended for the Washington office will be deposited, with inclosures securely attached to letters. At the close of the day the letters, without being folded, will be placed in a large envelope and mailed. Printed envelopes will be furnished on requisition.

When the day's mail consists of but one letter, however, the letter should be folded and mailed in an envelope of the ordinary size. Vouchers will not be inclosed with other mail.

To maintain the standard of correspondence of the Forest Service the following instructions will be carefully observed:

Use direct, clear-cut language. Avoid unwieldy words where shorter, simpler ones will express the idea equally well. Be concise, but courteous. Avoid laborious statements, the essence of which might well be expressed in half the space.

Very few letters need be longer than one page.

Never use the substance of the letter received as a preamble to the reply. Unless the incoming letter has already been acknowledged and further reference to it is necessary its subject should not be indicated. Example: "In further reference to your letter OE of March 20, concerning the repair of Black Mountain cabin."

For acknowledgments or replies the first sentence should always refer to the initial in the upper left-hand corner of the letter answered, and its date; for example: "In reply to your letter (OL) of March 30:" followed by a colon and a new paragraph.

Except on printed forms, writing must be on one side of the sheet only.

All rangers' correspondence and reports must be in ink or indelible pencil.

Supervisors will conduct all their correspondence in typewriting, except when away from their offices. Machines will be furnished upon requisition.

Letters and reports of subordinates transmitted by a supervisor to the Forester must be originals, not copies made by the supervisor. The supervisor will keep copies when needed for his own records, or, when necessary, request the return of the originals.

All supervisors will register their telegraphic addresses at the nearest telegraph office. In large towns this should be done with both the Western Union and the Postal Telegraph companies. This address, as it counts as part of the message, should consist

only of the last name of the supervisor, his headquarters town, and the State or Territory. For example: "Edwards, Metropolis, Wyoming." Whenever this is done the Forester should be notified by mail of the address registered. In communicating with the Washington office by wire address only "Forester, Washington, D. C.," and sign the last name only. Whenever a supervisor leaves his headquarters with no one in charge he should notify his telegraph office of the place where he can be reached by mail when not in direct telegraphic communication. Supervisors need not hesitate to use the wire when important matters demanding quick action arise, but they must make all telegrams as brief as possible.

PROMISE RECORD AND FOLLOW-UP SYSTEM.

I.—RECORD OF PROMISES.

Records of all promises involving future action will be kept in the administrative offices in Washington and in all permanent field headquarters.

Except in rangers' headquarters, where the records will be kept on desk calendars, the equipment will consist of a standard promise-card box; daily and monthly guide cards, 3" by 5"; and plain white cards, 3" by 5". When necessary, a one-drawer card index case may be used instead of the cardboard box.

The record of a promise will always be made when the promise is made. When the date of fulfillment can not be positively determined, an approximate date will be given: "Not later than ———." The date of fulfillment will be written on the first line of the promise card, and any change which may later become necessary should be entered on the same line. Below the date will be written the name of the person to whom the promise is made or who is otherwise concerned. The card will be dated in the lower left-hand corner. Every card will contain a memorandum of sufficient definiteness to give a clear understanding of the promised action to anyone who may be required to complete it.

1

The card should be filed in front of the time guide for the date set.

If the promise can not be fulfilled on the date set, the person to whom it was made will be so informed, and the card will be redated for action and changed to the time guide for the new date.

When the action promised is long in advance or dependent upon contingencies not yet developed, it will be found useful so to file the card that it falls due at short intervals, until the promise is fulfilled. For example, "Daily" can be added, and the card kept in the front of the box as a daily reminder, or "Weekly" can be used and the card filed under a date a week ahead. By the same method a semimonthly or monthly reminder can be had. When the action can not be taken on the date indicated on the card, the latter can be advanced another period.

If the fulfillment of a promise does not require a letter, the card will be marked "Filled," and filed with the papers pertaining to the case; but if the record is already complete the card will be destroyed.

II.—FOLLOW-UP SYSTEM.

The same equipment will be used to follow up action requested, and the follow-up cards will be prepared and filed in the same way as promise cards.

To follow-up requests from the offices in Washington to supervisors and other field officers for reports or action, a white postal card and a yellow slip, 3" b 5", will be furnished.

The office concerned will enter on the slip and card by carbon duplication the date, case heading or subject, and key initials of the office, and forward the card to the supervisor with the request for report or action.

The slip will be filed in the office promise-card box two weeks ahead, as a reminder.

The supervisor will enter on the card the date on which he will take the action required, sign it and mail it as a post card to the forester.

When the card is received by the office concerned, the reminder slip will be destroyed and the card filed under the date given by the supervisor.

The promise card will not be used in cases of the following classes, which will be handled in the time limits specified, in the absence of special instructions:

Contracts sent out for execution, one month.

Form 935, "Certificate of Publication," three weeks.

Special-use permits and agreements for execution, one month.

ACTION BY THE SUPERVISOR.

The supervisor will check up action which he instructs his subordinates to take, through the use of a white card and yellow slip, 3" by 5", on which are printed identical request for the report or other action required. In each case both will be filled in, the white card mailed to the subordinate and the yellow slip filed as a reminder until the action is taken.

The card received from the supervisor should be retained by the subordinate Forest officer until the required report has been made, and a memorandum of its character and the date it is due will be entered on his desk calendar. When the report is forwarded to the supervisor the card will be destroyed.

FILING.

Letters will not be press-copied. A carbon copy will be made of every letter written in the supervisor's office and attached by a metal fastener to the letter answered. The carbon copy will not be filed until all corrections in the original letter are reproduced upon it and the name of the signer affixed with rubber stamp or pen and ink. The most recent letters will be filed on top.

If correspondence in one case bears on another, cross reference should be made by notation. When a letter is received which deals with two subjects for each of which there is a file, the letter itself should be filed under one subject and a yellow cross-reference sheet filed under the other.

Standard filing cases have been adopted for Forest headquarters. The record case will consist of four units with top and base. These units will be designated sections 1, 2, 3, and 4. Section 1 consists of a 4-drawer map unit. Section 2 consists of a 2-drawer vertical unit. Section 3 consists of a 9-drawer correspondence unit. Section 4 consists of a 6-drawer document unit. Additional units (except section 4) will be furnished, when required, on requisition to the Forester.

The library case will consist of three units, which will be designated sections 5, 6, and 7. Section 5 consists of a cupboard base. Section 6 consists of a 14-drawer (21-compartment) legal-blank unit. Section 7 consists of a bookcase unit.

Correspondence with field stations should be filed with correspondence with the Washington office.

Correspondence with the public or with Forest officers should be filed with designated cases in section 2, or with the Forester's correspondence in section 3, whenever the subject-matter bears so close a relation to the designated cases or to the matter in the Forester's files that this action is necessary to make a complete record of the case or transaction. In such cases cross reference will be used.

Correspondence and folders will always be filed under or behind, not over or in front, of the corresponding guide or tab.

Circular letters will be treated as general correspondence and filed according to subjects.

Strict adherence to the use of drawers as indicated under the respective numbers will not be required, since some offices are supplied with several units of each kind of filing section.

USE OF SUPERVISORS' FILING CASES.

RECORD FILING CASE.

Section 1.

This section will be used for maps and blueprints.

When maps accompanying special-use cases are too large to file with the designated case in section 2, they may be filed in

section 1 in special folders cut from manila wrapping paper, with the case designations shown on the tabs.

When not needed for maps a portion of the space in this section may be used for stationery and office supplies.

Section 2.

This section will be used for filing documents, correspondence, and other papers relating to designated transactions, with the following arrangement of subject guides:

Drawer 1.—Timber sales; timber settlement; free use; grazing—cattle and horses; grazing—sheep and goats; grazing—use of private lands; grazing—crossing permits; grazing—disapproved applications.

Drawer 2.—Special uses, claims, settlement, improvement, trespass.

This arrangement may be modified to allow the heaviest classes of business to come in different drawers.

Behind each subject guide will be filed the papers relating to the transactions under that subject. The papers relating to a particular transaction will be kept in a folder, upon the upper left-hand margin of which will be written the proper designation of the transaction.

Folders containing papers relating to any subject except grazing will be arranged alphabetically by the name of applicant, trespasser, claimant, or mine, as the case may be. Folders containing papers relating to approved grazing applications will be arranged numerically by the number of application. When warranted by the number of folders under any subject, except approved grazing applications, alphabetical (A to Z) guides may be used. When warranted by the number of folders under grazing, guides with blank tabs may be used to indicate the relative positions of the numbers on the folders.

Correspondence likely to result in designated cases will be filed temporarily in folders placed immediately behind the guides in this section, in a separate folder for the papers relating to each general subject, as timber sales, grazing, etc. When

a case receives a designation, the papers relating to it will be removed from the general folder and placed in a folder marked with the case designation. As soon as it becomes evident that a designated case will not result, the correspondence will be distributed to the appropriate files in section 3.

Free use: The duplicate of the permit (Form 874-8) will be filed alphabetically in the card record case. Correspondence regarding free-use cases will be filed alphabetically in section 2 behind a guide marked "free use." An A to Z index should be used for this purpose. Correspondence with a Forest officer will be filed with the other papers in the case in alphabetical order according to the initial of the permittee. Cross references will be made on the backs of the duplicates of the permits referring to the correspondence in section 2.

Claims: All mineral claims of a group or under one mineral entry will be considered as one case and filed in one folder, arranged alphabetically by the name of the first claim in the group. A card will be prepared for each claim, whether it be a single claim or one of a group. If the latter, reference must be made on the card to the name of the group, in order that the proper folder may be located.

Settlement: Similar action will be taken with applications under the act of June 11, 1906, and the folders filed alphabetically behind a guide marked "settlement." Letters from the chief inspector, as well as those from the Forester, which relate to particular cases will be filed in these folders.

Improvement: Each administrative site and each project of improvement work will be treated as a designated case. A separate folder for each site or project will be prepared and filed behind a guide marked "improvement." The withdrawal of an administrative site and all expenditures of money for its improvement will be regarded as a single case, and the correspondence filed in one folder. Business pertaining to each case should be made the subject of a separate letter, except in case of transfers between projects, when cross references will be used.

Section 3.

Section 3 will be used for filing correspondence and reports, with the following drawer classification:

Drawer 1 (top drawer, left-hand column).—Miscellaneous public.

The drawer used for filing correspondence with the public is equipped with an alphabetical (A to Z) index and four special folders. (The filing should be alphabetical, not only as to the first initial, but throughout the name. For example, all letters from *Henry Jones* should be filed together, with the last letter on top, and should always follow *Albert Jones* and precede *John Jones*. By this method all the correspondence with any one person can be found more quickly than would be possible if it were necessary to search through all letters filed behind the J guide.)

The four special guides should be used for correspondence with Federal, State, or county officers, etc. For example, "Local Land Office," "State Forester," "Depot Quartermaster."

Correspondence with a person in his official capacity should always be filed under his official title and not under his name.

Correspondence with corporations, companies, and firms should always be filed under the corporate or firm name and not under names of individual signers. When the individual signer is well known, however, it will be helpful to file a cross-reference sheet under his name.

Drawer 2.—Orders: Departmental, Service, and supervisors' orders, and field programmes, in separate folders. Supervisors' orders should include all general orders and circular letters, signed by the supervisor and sent to the Forest officers under his jurisdiction.

Drawer 3.—Reports: Supervisors', rangers', and technical reports, and outlines for the preparation of reports, with subject guides, for each class.

"Supervisors' reports" comprise all regular annual reports required by the Use Book. Each copy filed should be labeled across the top with subject and year.

"Rangers' reports" filed in this drawer comprise only those which cover some special subject and do not relate to a designated case.

"Technical reports" include marking rules and all reports sent from Washington for the information of the supervisor, as well as reports made by the Forest assistant.

Outlines for preparation of reports include outlines prepared in the Washington office for reports by supervisor, Forest assistant, or rangers: as, technical, silvical, or boundary reports.

Drawer 4 (top drawer, middle column).—*The Forester*: Timber sales, atlas, planting, silvics and dendrology, products, grazing, advertising.

Timber sales: Timber sales and free use, not filed with designated cases. Letters authorizing supervisors and rangers to make sales of timber up to specified amounts. Brush burning.

Atlas: Collection of forest and title data. Preparation and correction of forest, title, and base maps, and atlas folios.

Planting: Forest planting, seed collecting, seed production, planting station, ranger nurseries; but not expenditure of money for permanent improvements. When there is a planting station on a Forest, a folder marked "Planting station" will be used.

Silvics and dendrology: Natural reproduction on cut-over areas, diseases of trees, insect pests, and the identification, distribution, and silvical characteristics of trees, shrubs, and herbs.

Products: Wood utilization and wood preservation. Collection of statistics.

Grazing: Grazing, not filed in designated cases, including annual grazing allotment from the Forester, carbon of annual report on grazing to be filed in drawer 3.

Advertising: Advertising of grazing and timber sale business in specified newspapers.

Drawer 5.—*The Forester*: Equipment and supplies, accounts, special disbursing agent, authorization (general expenses), authorization (improvement), personnel, improvement, administrative sites.

Equipment and supplies: Articles procurable on requisition to the Forester or to be purchased in the field, when chargeable

against the letter of authorization for general expenses, as distinguished from the improvement fund. Certificates of loss or destruction of property. Libraries in supervisors' offices.

Accounts: Disallowances and suspensions. Explanations accompanying expense accounts. Rent, office quarters, light, heat, and janitor services. Use of vouchers and subvouchers.

Special disbursing agent: Appointment and business transactions of supervisor as temporary special disbursing agent. This folder is needed only when the supervisor holds such an appointment.

Authorization (general expenses): Letters of authorization, increases, and decreases, for general expenses. (OA letters, signed by acting Forester.) General correspondence should not be filed in this drawer.

Authorization (improvement): Letters of authorization, increases, and decreases, for improvement work. (OA letters, signed by acting Forester.)

Personnel: Salary allotment letters, appointments, promotions, demotions, suspensions, dismissals, resignations, furloughs, transfers, civil-service eligibles, ranger and supervisor meetings, and ranger districts.

Improvement: Estimates, and general correspondence regarding the construction, maintenance, and repair of roads, trails, bridges, cabins, fences, pastures, telephones, and fire lines; water development; boundary surveys, and purchase of teams and wagons. Copy of annual estimate will be filed in drawer 3. Papers and correspondence relating to particular projects will be filed in folders, as prescribed under section 2.

Administrative sites: The withdrawal of land for administrative purposes, whether for ranger stations, supervisor's headquarters, national monuments, nurseries, planting, or other public use. Correspondence regarding the expenditure of money on administrative sites for improvement purposes should be filed under improvement. Correspondence regarding the withdrawal or improvement of particular sites should be filed in folders, as described under section 2.

Drawer 6.—The Forester: Claims, boundaries, settlement, uses, fire.

Claims: Claims, not filed in designated cases. Reconveyances, alienated lands, and status of titles to lands in the Forest. Lists of reconveyances.

Boundaries: Changes in exterior boundaries. Redistricting.

Settlement: Correspondence with the Forester, chief inspector, or acting chief inspector regarding applications for and the listing of lands under the act of June 11, 1906 not filed under designated cases.

Uses: General instructions and correspondence regarding special uses not filed under designated cases.

Fire: Fires, and reports on particular fires. Annual report to be filed in drawer 3.

Drawer 7 (Top drawer, right-hand column).—Forest officers: Correspondence with rangers and other officers on the Forest with whom the supervisor carries on a regular correspondence. Special indexes will be used, containing twelve blank guides, upon which will be written the names of the Forest officers. (See p. —.)

Drawer 8.—Miscellaneous Forest Service: This drawer will be used for filing correspondence with officers of other national forests, with members of the Service away from Washington and not assigned to any particular Forest, and with inspectors other than the chief inspector or acting chief inspector. It will be equipped with an A to Z index, the filing to be done in accordance with the instructions given for drawer 1. One of the special folders at the back of the index will be used for correspondence with the chief inspector and acting chief inspector not in reference to the act of June 11.

Drawer 9.—Forms 4, A, and 99: Carbon copies filed without guide cards. Carbons of Form 99 should be clipped to carbons of Form A and Form 4. Form 99 for pay rolls should be arranged with other carbons in this drawer, according to certificate numbers, the oldest at the back.

Section 4.

Section 4. This section will be used for filing rangers' service reports and papers of similar nature. The following arrangement of drawers will be used:

Drawers 1 and 2 (on left).—Rangers' service reports: Each month's report permanently fastened with a Hotchkiss staple; reports for all rangers for the month assembled and separated from the following month by a folded copy of the monthly salary roll, Form 143. Form 99 for pay roll to be filed in drawer 9, section 3.

Drawers 3 and 4.—Rangers' fire reports: Folded separately and filed by ranger districts, behind guide cards showing district numbers.

Drawers 5 and 6.—Requisitions, invoices expendable, invoices nonexpendable, receipts (Form 943), rangers' property receipts, certificates of loss. Carbon copies folded, dated on outside, and filed behind subject guide cards.

CARD-RECORD CASE.

The record filing case (section 2) is supplemented by the 2-drawer card-record case. In this the card records will be kept. Subject guide cards with the following printed headings will be used: "Personnel," "Timber sales," "Timber settlements," "Free use," "Grazing—cattle and horses," "Grazing—sheep and goats," "Grazing—use of private lands," "Grazing—crossing permits," "Special uses," "Claims," "Settlement," "Trespass," and "Administrative sites." The project ledger will serve as a sufficient record of improvement work. All record cards will be filed alphabetically behind their respective subject guide cards. When warranted by the number of cards under any subject, alphabetical (A to Z) guide cards may be used.

LIBRARY CASE.

Section 5 will be used for stationery and office supplies.

Section 6 will be used exclusively for blank forms.

Section 7 will be used as a bookcase for the office library.

TRANSFER CASES.

The 2-drawer vertical unit (section 2) will be supplemented by cardboard transfer cases, which will be without indexes. They will be numbered consecutively in series as used, and marked with subjects and inclusive dates. When a sale, special use, or other transaction is officially closed, the folder containing all the papers will be removed from the file and placed in the last-numbered transfer case. Each transfer case will hold from 4 to 10 folders, according to the number of papers and letters involved. As an index to the closed and transferred cases, the words "Closed ———, Tr. No. ——" will be placed along the top margin of the record card with a rubber stamp. To this will be added in writing the date the folder is transferred and the number of the transfer case.

The drawers for filing correspondence and reports (section 3) will be supplemented by cardboard transfer cases. These will be furnished with indexes identical with those in the drawers. When a correspondence drawer becomes so full as to be inconvenient for handling, the entire contents, including the index, will, by means of the metal attachment, be removed bodily from the drawer and placed in a transfer case, from which the empty index has first been removed in a similar manner. The empty index will be inserted in the drawer, which will then be ready for continued use. These transfer cases will also be numbered consecutively in a separate series. The number on the case to which the correspondence is transferred, with the opening and closing dates of the period covered by the correspondence, will be entered in the blank pasted on the bottom of the drawer.

The card-record case will be supplemented by cardboard transfer cases.

SYSTEM OF IDENTIFYING TRANSACTIONS.

National Forest transactions, to facilitate their identification and the filing of records, will be divided into the following subjects: Timber sales, special uses, claims, settlement, improvement, trespass, and grazing.

For the complete identification of each particular transaction under these subjects the following system of designations will be used in filling in printed forms and card records, referring to the particular transaction in letters, and labeling document folders for section 2 of the supervisors' filing cases.

Under timber sales.—By name of applicant, subject, date of application, and name of Forest. Thus:

"John Jones, timber sale, February 15, 1908, Shawnee National Forest."

Under timber settlements.—By the name of the applicant, subject, kind of use, date of application, and name of Forest. Thus:

"John Jones, timber settlement, reservoir, February 15, 1908, Shawnee National Forest."

"John Jones, timber settlement, reservoir (Interior), February 15, 1908, Shawnee National Forest."

Under special uses.—By name of applicant, name of use, date of application, and name of Forest. Thus:

"John Jones, sawmill, February 15, 1908, Shawnee National Forest."

"John Jones, pasture, February 15, 1908, Shawnee National Forest."

"Great Northern Lumber Company, railway, February 15, 1908, Shawnee National Forest."

The name of any other special use applied for will be used instead of those given above.

In designating rights granted by the Secretary of the Interior the word "Interior" will be inserted in parentheses after the name of the right. Thus:

"John Jones, reservoir (Interior), February 15, 1908, Shawnee National Forest."

On the folder and record card (Form 619) the word "Interior" will be written in the upper right-hand corner.

Under claims.—By name of claimant or mine, kind of claim, and name of Forest. Thus:

"John Jones, homestead settlement, Garfield land district, Shawnee National Forest."

"John Jones, homestead entry 35412, final certificate 7896, Garfield land district, Shawnee National Forest."

"John Jones, desert-land entry 53124, final certificate 9967, Garfield land district, Shawnee National Forest."

"John Jones, timber and stone, sworn statement 14352, entry 8697, Garfield land district, Shawnee National Forest."

"John Jones, National Forest lieu selection 41345, Garfield land district, Shawnee National Forest."

"John Jones, soldiers' additional application, final certificate 8769, Garfield land district, Shawnee National Forest."

"John Jones, coal declaratory statement 34125, entry 25143, Garfield land district, Shawnee National Forest."

"Kitty B. placer claim, John Jones, mineral location, Garfield land district, Shawnee National Forest."

"Kitty B. placer claim, John Jones, mineral application 324, mineral entry 452, Garfield land district, Shawnee National Forest."

"Golden Gate lode claim, John Jones, mineral location, Garfield land district, Shawnee National Forest."

"Golden Gate lode claim, John Jones, mineral application 324, mineral entry 254, Garfield land district, Shawnee National Forest."

Forest officers will designate claims according to their status at the time of investigation or report, and always use the proper land office numbers when known. They will complete the record on cards and folders from time to time as such numbers become known. Land office abbreviations may be used.

Under settlement.—By name of applicant, subject, date of application, and name of Forest. Thus:

"John Jones, application, act of June 11, 1906, February 15, 1908, Shawnee National Forest."

Under improvement.—By name of administrative site or other project of improvement work, subject, date authorized, and name of Forest. Thus:

"Flat Rock Ranger Station, improvement, January 20, 1908, Shawnee National Forest."

The date will not be filled in until an authorization is issued or transfer approved for money to be expended on the project.

Under trespass.—By name of trespasser, kind of trespass, date of "report of trespass," and name of the Forest. Thus:

"John Jones, timber trespass, February 15, 1908, Shawnee National Forest."

"John Jones, illegal inclosure, February 15, 1908, Shawnee National Forest."

Any trespass other than timber, fire, and grazing will be designated as a "special use trespass."

Under grazing, approved permits (cattle and horses) or (sheep and goats).—By name of applicant, subject, number of application, and name of Forest. Thus:

"John Jones, grazing, No. 10, Shawnee National Forest."

Under grazing, disapproved applications.—By name of applicant, subject, and name of Forest. Thus:

"John Jones, disapproved, grazing, Shawnee National Forest."

Under grazing and use of private land.—Name of applicant, subject, and name of Forest. Thus:

"John Jones, use of private land, Shawnee National Forest."

Under crossing permits.—Name of applicant, subject, and name of Forest. Thus:

"John Jones, crossing permit, Shawnee National Forest."

In Forests where both cattle and horses, and sheep and goats, are allowed, the cattle and horse applications will begin each season with No. 1, and the sheep and goat applications with a number, such as 301, 501, or 1001, which is certain to be above the highest number given any cattle and horse grazing application for the same Forest.

RANGER'S FILING EQUIPMENT.

For the use of Forest rangers, standard filing equipment of three kinds will be furnished upon requisition, as follows:

Class 1: One two-drawer No. 54 Y. and E. vertical file case, top No. 12, and leg base No. 2. This case is supplied with the necessary folders and guide cards, and is designed for filing

general correspondence and designated cases. As a rule, it will be used by those rangers who have permanent headquarters and a large amount of business.

Class 2: Three standard cardboard transfer boxes, one for miscellaneous correspondence, with A to Z index; one for designated cases, with special index; and one for blank forms, with folders. One metal case to hold the boxes. This equipment will meet the needs of rangers who have permanent headquarters, but who have a less amount of business than those supplied with Class 1.

Class 3: Universal letter file. This file is similar to the Favorite file, but is more strongly made, and contains, in addition to the A to Z index, several compartments for the various kinds of designated cases. It will be supplied to rangers who have no permanent headquarters and who are therefore unable to make use of either Class 1 or Class 2.

APPENDIX.

STATUTES.

Creation and Administration of National Forests.

CREATION AND MODIFICATION.

ACT OF MARCH 3, 1891 (26 STAT., 1095).

[1103] SEC. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.

Creation of National Forests.

ACT OF JUNE 4, 1897 (30 STAT., 11).

[34] To remove any doubt which may exist pertaining to the authority of the President [in regard to the National Forests] the President of the United States is hereby authorized and empowered to revoke, modify, or suspend any and all such Executive orders and proclamations or any part thereof, from time to time, as he may deem best for the public interest. * * *

President empowered to revoke, modify, or suspend Executive orders or proclamations.

[36] The President is hereby authorized at any time to modify any Executive order that has been or may hereafter be made establishing any forest reserve, and by such modification may reduce the area or change the boundary lines of such reserve, or may vacate altogether any order creating such reserve.

President may modify any Executive order, etc.

ACT OF MARCH 4, 1907 (34 STAT., 1256).

[1269] Forest reserves * * * shall hereafter be known as National Forests. * * *

ACT OF MARCH 4, 1907 (34 STAT., 1256).

[1271] Hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created within the limits of the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

No new Forests to be created in certain States.

ADMINISTRATION.

ACT OF JUNE 4, 1897 (30 STAT., 11).

* * * * *

[34] ^a All public lands heretofore designated and reserved by the President of the United States under the provisions of the act approved March [35] third, eighteen hundred and ninety-one, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as public forest reserves under said act, shall be as far as practicable controlled and administered in accordance with the following provisions:

No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes.

The Secretary of the Interior shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been set aside or which may be hereafter set aside under the

National Forests, when to be established.

Provisions for protection against fire, etc.

^a The stars indicate the omission of the timber sale advertisement provisions of this act which were modified by the act of June 6, 1900 (31 Stat., 661), and repealed by the Agricultural appropriation act of June 30, 1906 (34 Stat., 684).

said act of March third, eighteen hundred and ninety-one, and which may be continued; and he may make such rules and regulations and establish such service as will in-

Rules and regulations.

sure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this act or such rules and regulations shall be punished as is provided for in the act of June fourth, eighteen hundred and eighty-eight, amending section fifty-three hundred and eighty-eight of the Revised Statutes of the United States. (See p. 252.)

Penalty.

Vol. 25, p. 166.
R. S., sec. 5388,
p. 1044.

For the purpose of preserving the living and growing timber and promoting the younger growth on forest

**Timber.
Appraisal and sale
of dead, etc.**

reservations, the Secretary of the Interior, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon such forest reservations as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively; but not for export therefrom (but see p. 221).

[Before such sale shall take place notice thereof shall be given * * * for not less than thirty days, by publication in one or more newspapers of general circulation, as he may deem necessary, in the State or Territory where such reservation exists:

**Sale of timber.
Advertisement.**

Proviso.

**Emergency, etc.,
sales in advance of
advertisement.**

Provided, however, That in cases of unusual emergency the Secretary of the Interior may, in the exercise of his discretion, permit the purchase of timber and cord wood in advance of advertisement of sales at rates of value approved by him and subject to payment of the full amount of the highest bid resulting from the usual advertisement of sale: *Provided further,* That he may, in his discretion, sell without advertisement, in quantities to suit applicants, at a fair appraisement, timber and cord wood not exceeding in value one

**Private sale where
bid unsatisfactory,
etc.**

hundred dollars stumpage: *And provided further,* That in cases in which advertisement is had and no satisfactory bid is received, or in cases in which the bidder fails to complete the purchase, the timber may be sold, without further advertisement, at private sale, in the discretion of the Secretary of the

Interior, at not less than the appraised valuation, in quantities to suit purchasers,] ^a payments for such timber to be made * * * under such rules and regulations as the Secretary of the Interior may prescribe. * * * Such timber before being sold shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the Secretary of the Interior, not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make report in writing * * * of his doings in the premises.

The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber and stone found upon such reservations, free of charge, by bona fide settlers, miners, residents, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes, as may be needed by such persons for such purposes; such timber to be used within the State or Territory, respectively, where such reservations may be located. (But see p. 70.)

[36] Nothing herein shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of such reservations, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of the Interior. Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof: *Provided*, That such persons comply with the rules and regulations covering such forest reservations.^b

The settlers residing within the exterior boundaries of such forest reservations or in the vicinity thereof may maintain schools and churches within such reservation, and for that purpose may occupy any part of the said forest reservation, not exceeding two acres for each schoolhouse and one acre for a church.

^a The matter in brackets is taken bodily from the act of June 6, 1900 (31 Stat., 661), and, since the passage of the agricultural appropriation act of June 30, 1906 (34 Stat., 684), is the timber-sale law for all National Forests. (See p. 215.)

^b The *lieu-selection* provisions of this statute were repealed by the act of March 3, 1905 (33 Stat., 1264).

The jurisdiction, both civil and criminal, over persons within such reservations shall not be affected or changed by reason of the existence of such reservations, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such reservation is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State.

Civil and criminal jurisdiction.

All waters on such reservation may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such forest reservations are situated, or under the laws of the United States and the rules and regulations established thereunder.

Waters.

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated, and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained.

Restoration of mineral or agricultural lands to public domain.

TRANSFER OF NATIONAL FORESTS.

ACT OF FEBRUARY 1, 1905 (33 STAT., 628).

The Secretary of the Department of Agriculture shall, from and after the passage of this act, execute or cause to be executed all laws affecting public lands heretofore or hereafter reserved under the provisions of section twenty-four of the act entitled "An act to repeal the timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, and acts supplemental to and amendatory thereof, after such lands have been so reserved, *excepting such laws as affect the surveying, prospecting, locat-*

Transfers care of National Forests to the Department of Agriculture.

ing, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any of such lands.

Exportation from Alaska. SEC. 2. That pulp wood or wood pulp manufactured from timber in the district of Alaska may be exported therefrom.

Forest supervisors and rangers. SEC. 3. That forest supervisors and rangers shall be selected, when practicable, from qualified citizens of the States or Territories in which the said reserves, respectively, are situated.

Mining and municipal rights of way. SEC. 4. That rights of way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals within and across the forest reserves of the United States are hereby granted to citizens and corporations of the United States for municipal or mining purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said reserves are respectively situated.

Special fund. SEC. 5. That all money received from the sale of any products or the use of any land or resources of said forest reserves shall be covered into the Treasury of the United States and for a period of five years from the passage of this act shall constitute a special fund available, until expended, as the Secretary of Agriculture may direct, for the protection, administration, improvement, and extension of Federal forest reserves.

NOTE.—The Department of Agriculture and the Department of the Interior have concurred in the opinion that the above law divides the jurisdiction over forest reserves as follows: All grants of rights or privileges within forest reserves, which do not affect the title to the land or cloud the fee, are under the jurisdiction of the Secretary of Agriculture. All grants which dispose of title to or give an easement running with the land are under the jurisdiction of the Secretary of the Interior.

AGRICULTURAL APPROPRIATION.

ACT OF JUNE 30, 1906 (34 STAT., 669).

* * * * *

[684] That the forest-reserve special fund provided for in section five of the act approved February first, nineteen hundred and five, entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department

National Forest special fund.

of Agriculture," shall continue until otherwise provided by law ; but after June thirtieth, nineteen hundred and eight, it shall not be expended except in accordance with specific estimates of expenditures to be made from said fund for the succeeding fiscal year, to be submitted by the Secretary of Agriculture with the estimates of appropriation in the annual Book of Estimates.

* * * *

[684] Hereafter sales of timber on forest reserves in the State of California shall in every respect conform to the law governing such sales in other States, as set forth in the act of June sixth, nineteen hundred (Thirty-first Statutes at Large, page six hundred and sixty-one) ; and hereafter all moneys received as deposits to secure the purchase price on the sale of any products or the use of any land or resources of the forest reserves shall be covered into the Treasury in the manner provided by section five of the act of Congress approved February first, nineteen hundred and five, entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," and the fund created by that act shall be available, as the Secretary of Agriculture may direct, to make refunds to depositors of money heretofore or hereafter deposited by them in excess of amounts actually due to the United States ; and hereafter all moneys received as contributions toward cooperative work in forest investigations shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations by the Forest Service and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations.

Timber-sales rules made uniform.

Deposit of National Forest receipts.

Refunds.

Cooperative contributions.

Refunds.

ACT MARCH 4, 1907 (34 STAT., 1256).

[1269] And the Secretary of Agriculture * * * **[1270]** hereafter * * * may dispose of photographic prints (including bromide enlargements), lantern slides, transparencies, blue-prints, and forest maps at cost and ten per centum additional, and condemned property or materials under his charge in the same manner as provided by law for other bureaus. * * * And hereafter the employees of the Forest Service outside of

Sale of photographs, etc.

the city of Washington may, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leaves of absence not to exceed fifteen days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year. (See also act of May 23, 1908, p. 222.)

* * * * *

Hereafter on or before the first day of January of each year the Secretary of Agriculture shall submit to Congress classified and detailed reports of all receipts by the Forest Service and classified and detailed estimates of all expenditures intended for this service for the next fiscal year, and detailed reports of all expenditures under any appropriation for such service during the preceding fiscal year. * * * All money received after July first, nineteen hundred and seven, by or on account of the Forest Service for timber, or from any other source of forest reservation revenue, shall be covered into the Treasury of the United States as a miscellaneous receipt, and there is hereby appropriated and made available as the Secretary of Agriculture may direct out of any funds in the Treasury not otherwise appropriated so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States.

ACT OF MAY 23, 1908 (PUBLIC 136).

[9] GENERAL EXPENSES, FOREST SERVICE: To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, National Forests, forest fires, and lumbering, but no part of this appropriation shall be used for any experiment or test made outside the jurisdiction of the United States; to investigate and test American timber and timber trees, and their uses, and methods for the preservative treatment of timber; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: *Provided, That the cost of any building erected shall not exceed five hundred*

dollars; to pay all expenses necessary to protect, administer, and improve the National Forests; and here-

National Forests.

after officials of the Forest Service designated by the Secretary of Agriculture shall, in all ways that are practicable, aid in the enforcement of the laws of the States or Territories with regard

State stock, game, and fire laws.

to stock, for the prevention and extinguishment of forest fires, and for the protection of fish and game, and with respect to National Forests, shall aid

Cooperation with other Departments, etc.

Examining National Forests.

the other Federal Bureaus and Departments on request from them, in the performance of the duties imposed on them by law; to ascertain the natural conditions upon and utilize the National Forests, and the Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the National Forests, except the Black Hills National

Export of timber.

Dead and insect-infested timber, Black Hills.

Forest in South Dakota, to be exported from the State, Territory, or the district of Alaska in which said Forests are respectively situated: *Provided*, That the exportation of dead and insect-infested timber only from said Black Hills National Forest shall be allowed until such time as the Forester shall certify that the ravages of the destructive insects in said Forest are practically checked, but in no case after July first, nineteen hundred and ten; to transport and care for fish and game [10]

Transportation of fish and game.

Employees.

labor required in practical forestry and in the administration of National Forests, in the District of Columbia or elsewhere; and hereafter advances of money under any appropriation for the Forest Service may be made to the Forest Service and by authority

Advances to field parties.

of the Secretary of Agriculture to chiefs of field parties for fighting forest fires in emergency cases, who shall give bond under such rules and regulations and in such sum as the Secretary of Agriculture may direct, and detailed accounts arising under such advances shall be rendered through and by the Department of Agriculture to the Treasury Department; to col-

Printing.

Purchase of supplies, etc.

late, digest, report, illustrate, and print the results of experiments and investigations made by the Forest Service; to purchase law books to an amount not exceeding five hundred dollars, necessary supplies, apparatus, and office fixtures, and technical books and technical journals

for officers of the Forest Service stationed outside of Washington; to pay freight, express, telephone, and telegraph charges; for electric light and power, fuel, gas, ice, washing towels, and official traveling and other necessary expenses; and for rent in the District of Columbia and elsewhere * * * *Provided*, That

Travel.

no part of the money herein appropriated shall be used to pay the transportation or traveling expenses of any forest officer or agent except he be traveling on business directly connected with the Forest Service and in furtherance of the works, aims and objects specified and authorized in and by this appropriation: *Provided further*, That no part of this appropriation shall be paid or used for the purpose of paying for in whole or in part the preparation

Newspaper and magazine articles.

tion or publication of any newspaper or magazine article, but this shall not prevent the giving out to all persons without discrimination, including newspaper and magazine writers and publishers, of any facts or official information of value to the public.

And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of six hundred thousand dollars, to be expended as the Secretary of Agriculture may direct, for the construction and maintenance of roads, trails, bridges, fire lanes, telephone lines, cabins, fences, and other permanent improvements necessary for the proper and economical administration, protection, and development of the National Forests.

That hereafter twenty-five per centum of all money received from each forest reserve during any fiscal year, including the year ending June thirtieth, nineteen hundred and eight, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: *Provided*, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein.

* * * * *

[19] The employees of the Department of Agriculture, outside of the city of Washington, may hereafter, in the discretion of the Secretary of Agriculture, be granted leave of absence not to exceed fifteen days in any one year, which leave may in ex-

Leave of absence.
Sick leave.

ceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agriculture, not to exceed fifteen days additional in any one year.

To enable the Secretary of Agriculture to test such plants as may require tests to ascertain if they be suitable for making paper, ten thousand dollars, or so much thereof as may be necessary, including the employment of labor in Washington or elsewhere.

To enable the Secretary of Agriculture to inquire into the destruction of forests by the production of turpentine and resin, and the sources and methods of said industry, and in cooperation with the Bureau of the Census to report upon the production of the naval stores industry, ten thousand dollars, or so much thereof as may be necessary, including the employment of labor in Washington or elsewhere.

RIGHTS OF WAY FOR DITCHES AND CANALS CONSTRUCTED UNDER AUTHORITY OF THE UNITED STATES.

ACT OF AUGUST 30, 1890 (26 STAT., 391).

In all patents for lands hereafter taken up under any of the land laws of the United States * * * west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described, a right of way thereon for ditches or canals constructed by the authority of the United States.

RIGHTS OF WAY OVER UTAH STATE LANDS.

CHAPTER 115, LAWS OF UTAH (APPROVED MARCH 16, 1905).

SEC. 1. * * * There is hereby granted, over all the lands now or hereafter belonging to the State of Utah, a right of way for ditches, tunnels, and telephone and transmission lines, constructed by authority of the United States. All conveyances of State lands hereafter made shall contain a reservation of such right of way.

TIMBER FOR RECLAMATION SERVICE.

ACT OF FEBRUARY 8, 1905 (33 STAT., 706).

In carrying out the provisions of the national irrigation law approved June seventeenth, nineteen hundred and two, and in constructing works thereunder, the Secretary of the Interior is hereby authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by

Reclamation Service may use material from National Forests.

him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is hereby authorized to permit the use of earth, stone, and timber from the forest reserves of the United States for the same purpose, under rules and regulations to be prescribed by him.

BULL RUN NATIONAL FOREST.*

NOTE.—Act of April 28, 1904 (33 Stat., 526), prohibits grazing and trespass upon the Bull Run National Forest and excludes all persons therefrom except Forest officers and Federal and State officials and employees of the Portland water board in the discharge of their duties.

CROW CREEK NATIONAL FOREST.

ACT OF MARCH 13, 1908 (PUBLIC, 53).

That whenever the Secretary of War shall deem the acquisition of lands in private ownership necessary for the enlargement of the military maneuvering grounds for the United States Army and National Guard within the reservation known as the Crow Creek National Forest, he may certify to the Secretary of the Interior the description of such specific tract or tracts of land as he may deem necessary for such purpose, and the Secretary of the Interior may thereupon, with the approval of the President, exchange therefor an equal area of any of the unoccupied, nonmineral, untimbered public land subject to entry within the State of Wyoming.

MEDICINE BOW NATIONAL FOREST.

NOTE.—By act of March 2, 1907 (Public, 185), the city of Boulder, Colo., was granted certain lands within the Medicine Bow National Forest for municipal water supply purposes.

MINNESOTA NATIONAL FOREST.

ACT OF MAY 23, 1908 (PUBLIC, 137).

[1] That there is hereby created in the State of Minnesota a national forest consisting of lands and territory described as follows, to wit:

* * * * *

* Names of National Forests given here are those used prior to July 1, 1908.

[3] And it is the intent of this act to include in said national forest and make a part thereof all that certain territory and land which has heretofore been selected by the Forester of the

The ten sections.

Department of Agriculture as the ten sections situated in townships one hundred and forty-four, one hundred and forty-five, and one hundred and forty-six north, ranges thirty and thirty-one west of the fifth principal meridian in Minnesota and designated as being the ten sections referred to and authorized

Act June 27, 1902
(32 Stat., 400).

to be selected by section two of the act approved June twenty-seventh, nineteen hundred and two, being chapter eleven hundred and fifty-seven, United States Statutes at Large, volume thirty-two, entitled "An act to amend an act entitled 'An act for the relief

Act Jan. 14, 1889
(25 Stat., 642).

and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine; and also all the islands in Cass Lake, in the State of Minnesota.

And in addition to the lands and territory above described, the lands described by section two of said act

Islands and points.

of June twenty-seventh, nineteen hundred and two, as follows: "One hundred and sixty acres at the extremity of Sugar Point, on Leech Lake, and the peninsula known as Pine Point, on which the new Leech Lake Agency is now located," shall be included in and are hereby made a part of said National Forest: *Provided*, That this act shall not in any manner abridge the right of citizens to the use of the west and northwesterly shores of Cass Lake.

SEC. 2. The Secretary of the Interior is hereby authorized to proceed with the sale of the merchantable

**Timber sales by
Secretary of Interior.**

pine timber upon the above-described land outside of said ten sections and said islands and points, in conformity with the provisions of said act above entitled, and reserving ten per centum of such timber from sale, said ten per centum to be designated by the Forester of the United States Department of Agriculture; and as to the timber upon said ten sections and said islands and points, the said Forester is authorized, under such rules

**Timber sales by
Forester.**

and regulations as he may prescribe from time to time to sell and dispose of so much of the timber thereon as he may deem wise and advisable in the conduct of a National Forest: *Provided*, That a commission of three persons shall at once be appointed, consisting of one person to be designated by the President, one by the Secretary of the Interior, and one by a general council of

the Indians of the Winnibigoshish, Cass Lake, Chippewas of the Mississippi Reservation, and Leech Lake Reservation, to be held under the direction of the agent at Leech Lake Indian Agency; and said commissioners shall proceed forthwith to appraise the value of the

Appraisal of seed trees and of certain other timber.

five per centum of timber heretofore reserved from sale by the provisions of said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum hereafter reserved under the provisions of this act, and the timber upon said ten sections and upon [4] the unappropriated lands on said islands and points, and shall ascertain the acreage of actual land included under the provisions of this act and to the estimated value of said five per centum of timber reserved under the said act entitled "An act to amend an act entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,'" approved January fourteenth, eighteen hundred and eighty-nine, and the ten per centum reserved under this act and the estimated value of timber upon said ten sections and upon the unappropriated

Valuation of land. lands on said islands and points, to the sum of the values of the timber so estimated shall add an amount equal to one dollar and twenty-five cents for each and every acre of land not otherwise appropriated which they find covered by the provisions of this act, and shall certify the same to the Secretary of the Interior. The Indians designated in this section, acting through a representative who shall serve without compensation, to be named by them at the time of their appointment of the commissioner herein, shall have sixty days in which to appeal to the President of the United States from the findings of said commissioners, as certified to the Secretary of the Interior. At the end of said sixty days, if no appeal has been taken or if an appeal has been taken, then, upon the determination thereof by the President, the Secretary of the Interior shall certify the amount found by said commissioners, or if modified by the President the amount determined by him, to the Secretary of the Treasury, who shall thereupon place such

Payment to Indians.

amount to the credit of all the Chippewa Indians in the State of Minnesota as a part of the permanent fund of said "All of the Chippewa Indians in the State of Minnesota" provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa

Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, and the acts supplementary thereto, and the amounts so certified to the Secretary of the Treasury shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts.

SEC. 3. That any Indian having an allotment within the limits of the National Forest created by this act is hereby authorized to relinquish such allotment and permitted to take another allotment in lieu thereof outside such National Forest, under the direction of the Secretary of the Interior; and the allotments of any deceased Indians located within the boundaries of said National Forest shall not hereafter be disposed of under sec. 7, act June 27, 1902, 32 Stat., 245; but the heirs of said deceased Indians shall have the right, with the consent of the Secretary of the Interior and under such rules as he may prescribe, to relinquish to the United States the lands covered by such allotments and to select surveyed, unappropriated, unreserved land within the limits of any of the ceded Indian lands in the State of Minnesota and outside of the National Forest hereby created in lieu of the land covered by such allotments; and the lands so relinquished by the Indians or their heirs shall thereupon become part of the said National Forest. And the Secretary of the Interior is hereby authorized on request of the Forester of the Department of Agriculture to purchase such relinquishments from said Indians or their heirs and to pay for the same from any moneys received, after the appraisal of timber herein provided for, on account of the sale of timber from the National Forest hereby created, or from [5] the sale of any other products or the use of any lands or resources thereof.

SEC. 4. That all land in any of said reservations, the Winnebigoish Indian Reservation, Cass Lake Indian Reservation, Chippewas of the Mississippi Reservation, or Leech Lake Indian Reservation not included in the National Forest hereby created as above described, heretofore classified or designated as agricultural lands, is hereby declared to be open to homestead settlement; and any of said land which has been classified as timber land shall be open to homestead settlement as soon and as fast as the timber is removed therefrom, in conformity with the homestead law, except that none of said lands shall be disposed of except on payment of one dollar and twenty-five cents per acre.

Indian allotments—Relinquishment.

and purchase.

Homestead entry of unreserved land.

Sec. 5. That all moneys received from the sale of timber from any of the lands set aside by this act for a National Forest, prior to the appraisal herein provided for, including all moneys received for timber under sales made by the Secretary of the Interior as authorized by existing laws and section two of this act, shall be placed to the credit of the Chippewa Indians in the State of Minnesota, as provided for in an act of Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine; and the acts supplementary thereto, and shall draw interest at the rate of five per centum per annum, pursuant to the terms of said acts; and after said appraisal the National Forest hereby created, as above described, shall be subject to all general laws and regulations from time to time governing national forests, so far as said laws and regulations may be applicable thereto.

Sec. 6. That the commissioners provided for herein shall receive a compensation of ten dollars per day each for each and every day actually spent upon the work herein provided for, which shall be paid out of any money in the Treasury of the United States not otherwise appropriated, and no commissioner shall be paid for more than ten days' service.

Sec. 7. None of the Indian graves now upon any of the islands or points referred to in this act shall be disturbed and the Indians shall continue to have the right to bury their dead at such places as they have heretofore used for that purpose, under the rules and regulations to be prescribed by the Forest Service.

Sec. 8. That nothing in this act contained shall in any manner bind the United States to purchase any of the land in said reservations excluded from the reserve created by this act, or to dispose of said land, except as provided by the act of January fourteenth, eighteen hundred and eighty-nine, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and an act of June twenty-seventh, nineteen hundred and two, entitled "An act to amend an act for the relief and civilization of the Chippewa Indians in the State of Minnesota," or the provisions of this act; or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose

of the said lands and the timber thereon, and to dispose of the proceeds thereof, as provided in said acts, only when received from the sale of the timber and the lands, as therein provided.

SAN JUAN NATIONAL FOREST.

NOTE.—Act of March 1, 1907 (34 Stat., 1053), grants certain lands for reservoir purposes in the San Juan National Forest to the city of Durango, Colorado. In this act it is provided—

[1054] That the Forest Service of the United States Department of Agriculture shall have full power to patrol the said lands and to protect them from fire and trespass: *Provided further*, That the Forest Service may dispose of the timber upon the said lands, except so much thereof as may be growing within one hundred feet from the margin of any natural or constructed reservoir or of the main creeks within the said boundary flowing into such reservoirs under said additional rules for lumbering, to protect said waters from pollution, as shall be prescribed by the Forester and approved by the mayor of the city of Durango: *And provided further*, That if said city shall fence all or any part of said lands, it shall provide practicable gates in such fence at points to be designated by the supervisor of the San Juan National Forest.

UINTA NATIONAL FOREST.

ACT OF MARCH 3, 1905 (33 STAT., 1048).

[1070] That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves, and subject to the mineral rights granted by the act of Congress of May twenty-seventh, nineteen hundred and two, such portion of the lands within the Uintah Indian Reservation as he considers necessary, and he may also set apart and reserve any reservoir site or other lands necessary to conserve and protect the water supply for the Indians or for general agricultural development, and may confirm such rights to water thereon as have already accrued: *Provided*, That the proceeds from any timber on such addition as may with safety be sold prior to June thirtieth, nineteen hundred and twenty, shall be paid to said Indians in accordance with the provisions of the act opening the reservation.

President to proclaim addition to the Uinta Nat'l Forest.

SIERRA NATIONAL FOREST.

ACT OF FEBRUARY 7, 1905 (33 STAT., 702).

Part of the Yosemite National Park added to the Sierra National Forest.

The tracts of lands in the State of California known and described as follows:

* * * * *

[703] are hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserve forest lands, subject to all the provisions of the act of Congress approved October first, eighteen hundred and ninety, entitled "An act to set apart certain tracts of land in the State of California as forest reservations:" *Provided*, That all those tracts or parcels of land described in section one of the said act of October first, eighteen hundred and ninety, and not included within the metes and bounds of the land above described, be, and the same are hereby, included in and made part of the Sierra Forest Reserve: *And provided further*, That

Secretary of the Interior authorized to charge.

the Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made

a part of the Sierra Forest Reserve accorded under the act approved February fifteenth, nineteen hundred and one, relating to rights of way over certain parks, reservations, and other lands, and other acts concerning rights of way over public lands; and the moneys received from the privileges accorded on the lands herein segregated and included in the Sierra Forest

Special fund.

Reserve shall be paid into the Treasury of the United States, to be expended, under the direction of the Secretary of the Interior, in the management, improvement, and protection of the forest lands herein set aside and reserved, which shall hereafter be known as the "Yosemite National Park."

* * * * *

Rights Within National Forests.

CONTRACTS NONTRANSFERABLE.

REVISED STATUTES, SECTION 3737.

No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United

States are concerned. All rights of action, however, for any breach of such contract by the contracting parties are reserved to the United States.

HIGHWAYS.

REVISED STATUTES, SECTION 2477.

The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

RAILROADS.

ACT OF MARCH 3, 1875 (18 STAT., 482.)

The right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.

Right of way for railroads granted through public lands. Sec. 2. That any railroad company whose right of way, whose track or roadbed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon or other public highway now located therein, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any

Width of right of way.

Station buildings, etc.

Joint use of canyon, pass, or defile.

canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

SEC. 3. That the legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and, where such provision shall not have been made, such condemnation may be made in accordance with section three of the act entitled "An act [to amend an act entitled an act] to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the [483] same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-four.

SEC. 4. That any railroad company desiring to secure the benefits of this act shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior, the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

SEC. 5. That this act shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands specially reserved from sale, unless such right of way shall be provided for by treaty stipulation or by act of Congress heretofore passed.

SEC. 6. That Congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof.

ACT OF MARCH 3, 1899 (30 STAT., 1214).

[1233] In the form provided by existing law, the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby.

Right of way over
National Forests for
railroads and high-
ways.

IRRIGATION.

ACT OF MARCH 3, 1891 (26 STAT., 1095).^a

* * * * *

[1101] SEC. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal or ditch company formed for the purpose of irrigation and duly organized under the laws of any State or Territory, which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by the water of the reservoir and of the canal and its laterals, and fifty feet on each side of the marginal limits thereof; also the right to take, from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch:

Proviso.
Approval by De-
partment controlling
reservation.

Provided, That **[1102]** no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation, and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

SEC. 19. That any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of ten miles of its canal, if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land

^a This act was amended by act of May 11, 1898 (30 Stat., 404), sec. 2, quoted at p. 184.

office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said

Approval.

office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any

Damages.

canal, ditch, or reservoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 20. That the provisions of this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior, and with the register of the land office where said land is located, a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing, as though filed under it:

Proviso.

Provided, That if any section of said canal or ditch shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture.

Forfeiture for non-completion.

SEC. 21. That nothing in this act shall authorize such canal or ditch company to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

Use only for canal.

ACT OF MAY 11, 1898 (30 STAT., 404).

* * * * *

SEC. 2. That the rights of way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections eighteen, nineteen, twenty, and twenty-one of the act entitled "An act to repeal timber-culture laws, and for other purposes," ap-

Use for subsidiary purposes.

proved March third, eighteen hundred and ninety-one, may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation.

MUNICIPAL AND MINING.

ACT OF FEBRUARY 1, 1905 (33 STAT., 628).

* * * * *

Mining and municipal rights of way. SEC. 4. That rights of way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the forest reserves of the United States, are hereby granted to citizens and corporations of the United States for municipal or mining purposes, and for the purposes of the milling and reduction of ores, during the period of their beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said reserves are respectively situated.

* * * * *

MEDICINAL SPRINGS.

ACT OF FEBRUARY 28, 1899 (30 STAT., 908).

The Secretary of the Interior * * * is hereby authorized, under such rules and regulations as he from time to time may make, to rent or lease to responsible persons or corporations applying therefor suitable spaces and portions of ground near, or adjacent to, mineral, medicinal, or other springs, within any forest reserves established within the United States, or hereafter to be established, and where the public is accustomed or desires to frequent, for health or pleasure, for the purpose of erecting upon such leased ground sanitariums or hotels, to be opened for the reception of the public. And he is further authorized to make such regulations, for the convenience of people visiting such springs, with reference to spaces and locations, for the erection of tents or temporary dwelling houses to be erected or constructed for the use of those visiting such springs for health or pleasure. And the Secretary of the Interior is authorized to prescribe the terms and duration and the compensation to be paid for the privileges granted under the provisions of this act.

Pleasure and health resorts.

Compensation provided for.

* * * * *

ELECTRICITY AND WATER.

ACT OF FEBRUARY 15, 1901 (31 STAT., 790).

The Secretary of the Interior * * * is authorized and empowered, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forest and other reservations of the United States, and

Licenses to be granted within National Forests.

the Yosemite, Sequoia, and General Grant national parks, [791] California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber and lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted

Width of right of way.

hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of

Licenses must not be incompatible with the public interest.

the purposes herein named: *Provided*, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the Department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: *Provided further*; That all permits given hereunder for telegraph and telephone

Telegraph and telephone.

purposes shall be subject to the provisions of title sixty-five of the Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: *And provided further*, That any permission given by

Licenses revocable and confer no easement.

the Secretary of the Interior under the provisions of this act may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park.

EDISON ELECTRIC COMPANY.

ACT OF MAY 1, 1906 (34 STAT., 163).

Upon the conditions herein named the Edison Electric Company, a corporation existing under the laws of the State of Wyoming, and engaged in generating and distributing electric energy for use by municipalities and the public generally for lighting and power purposes, is hereby granted a permit, the duration of which shall be fixed by the Secretary of the Interior immediately after the passage of this act,^a revocable during the term fixed by said Secretary only in the manner and for the causes hereinafter specified, to occupy and use lands, to be designated in the manner hereinafter specified, within the San Bernardino, Sierra, and San Gabriel forest reserves, in the State of California, for canals, conduit lines, pole lines, power houses, diverting dams, necessary grounds to be submerged above the diverting dams, and necessary buildings and structures for the water-power plants hereinafter described, for the generation, transmission, and distribution of electrical power, namely:

Rights of way granted to Edison Electric Company.

Duration of permit.

* * * * *

[166] Permits for the construction of each of the foregoing power plants having been heretofore granted by the Interior or Agricultural Departments.

SEC. 2. That the ground covered by the permit hereby granted shall include fifty feet on each side of the

Width of right of way.

center of said canals or conduit lines and on each side of said pole lines, or so much thereof as may be actually necessary for their installation, maintenance, and use, and the ground actually occupied by and necessary for power houses, diverting dams, and necessary buildings and structures to be used in connection with the operation and maintenance of said water-power plants, together with fifty feet on each side of the marginal limits of all of such buildings and structures, or such portion of said fifty feet as may be actually necessary for the efficient operation and maintenance of said power plants, dams, and other structures; also the right to submerge and flood at the intake of each of said power plants within said forest reserves, not to exceed thirty acres in each case, such area only as may be actually necessary to divert the water into the several canal or conduit lines for said several power plants.

^a The term was fixed under this provision at forty years.

SEC. 3. That within six months after the passage of this act the Edison Electric Company shall file with the register of the United States land office for the district where said power plants are located, and with the Forester of the Department of Agriculture, a map and such copies thereof as the Secretary of the Interior may prescribe, showing separately as to each power plant the ground occupied or proposed to be occupied by such canals or conduit lines, pole lines, power houses, and other buildings and structures used in connection with said electrical power plants. These maps shall show the dimensions of each building and structure and each diverting dam, and the areas which it will be necessary to submerge at the point of intake of each power plant and, after the filing of said maps, all lands covered by this permit as shown on the maps, or to be occupied by such buildings and structures as shown, together with such portion of fifty feet on each side of the marginal limits thereof as may be actually necessary for the operation of the power plants, and such land as may be submerged by the construction and operation of said power plants shall, when disposed of by the Government, be disposed of subject to the rights hereby granted unless said rights shall have terminated or shall have been revoked as herein provided prior to such disposal.

SEC. 4. That said company shall conform to all regulations adopted or prescribed by the Secretary of Agriculture or the Secretary of the Interior governing said forest reserves, or the use of the users thereof, and shall not take, cut, or destroy any timber within the forest reserves except such as it may be actually necessary to remove to construct its power plants and the structures pertaining thereto, and it shall be required to pay to the proper officer of the Forest Service the full value of all timber and wood cut, used, or destroyed by it within the forest reserves.

SEC. 5. That the privileges herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under laws of the United States or of the State of California.

SEC. 6. That no private right, title, or interest owned by any person, persons, or corporation in such forest reserves shall be interfered with or abridged, except with the consent of the owner or owners, or by due process of law and just compensation to said owner or owners.

SEC. 7. That if the said permittee shall fail to consummate and put in operation the said power plant specified in subdivision (f) of section one hereof within two years from the date of passage of this act, or the power plant specified in subdivisions (g), (h), and (i) of section [167] one hereof within five years from the passage of this act; then as to each of said power plants not completed and put in operation within the time herein limited this permit shall be deemed to be revoked without judicial or other proceeding; and a failure during any year after completion to operate any power plant provided for in this act for a total time of ninety days in such year shall operate as a like revocation of this permit as to such plant or plants.

SEC. 8. That the enjoyment of the permit hereby granted shall be subject at all times to all laws relating to the forest reserves and to all rules and regulations authorized and established thereunder, and that for infraction of such laws, rules, or regulations the owner or user of said permit shall be subject to all fines and penalties imposed thereby, and shall also be liable in a civil action for all damages that may accrue from such breach, and that for any continued infraction of such laws, rules, or regulations, or failure to pay any amount due the Forest Service from said company within sixty days of notice thereof, the Secretary of the Department of the Interior may, upon request of the Secretary of Agriculture, after due notice and hearing, revoke and vacate this permit: *Provided*, That the transfer of any lands from the jurisdiction of one Department to that of another shall in no wise affect this permit, but the power hereby vested in the Secretary shall, upon such transfer, be deemed to be transferred with the land.

SEC. 9. That the said company shall pay annually in advance to the proper officer of the Forest Service, as compensation for the privileges hereby granted, such reasonable sum as the Secretary of Agriculture may fix from year to year, and shall pay for wood or timber cut, removed, or destroyed as fast as the value thereof may be ascertained and charged by the Forester: *Provided*, That the Secretary of Agriculture, his agents and employees, and all officers of the Forest Service, shall have free and unrestricted access in, through, and across all lands and structures covered by said permit in the performance of their official duties, and the Secretary in charge of

Forfeiture for failure to complete.

Subject to National Forest laws, rules, and regulations.

Annual charge for permit.

Right of access to members of Forest Service.

forest reserves may construct or permit to be constructed in, through, or across any land covered by said permit roads or trails, public or otherwise, or other means of transportation, not inconsistent with the enjoyment of the permit hereby granted: *Provided further*, That the Edison Electric Company shall, under penalty of immediate forfeiture of the permit hereby granted, when requested to do so, assist the forest officers in fighting fire, and shall furnish any men under its employ necessary for that purpose, and shall otherwise assist to the extent of its power in protecting the forest reserves and maintaining good order upon them.

SEC. 10. That Congress shall have power at any time to amend, modify, or repeal this act.

HOMESTEADS IN YELLOWSTONE NATIONAL FOREST.

ACT OF MARCH 15, 1906 (34 STAT., 62.)

The general provisions of the homestead laws of the United States be, and the same are hereby, extended to and over the surveyed lands in townships forty-eight, forty-nine, and fifty, and ranges one hundred and five and one hundred and six, within the Yellowstone Forest Reserve, and the said lands shall be subject to entry ninety days after the passage of this act, within which ninety-day period the Secretary of Agriculture may set aside such portions of said lands as were not occupied by a bona fide settler January first, nineteen hundred and six, not to exceed in the aggregate one [63] hundred and sixty acres, as may be necessary for forest-reserve administrative purposes, which lands so set aside shall not be subject to settlement entry or location during the life of the forest reserve: *Provided*, That the commutation clause of the homestead laws shall not apply to the said lands, and any bona fide settler who made settlement on said lands prior to January first, nineteen hundred and six, and who had prior to that time lost or exercised his homestead right, may enter and perfect title to the lands settled upon by him as though his homestead right had not been lost or exercised, upon the payment of the sum of one dollar and twenty-five cents per acre for the land included in his entry at the time of making final proof.

Homestead laws extended to six townships in Yellowstone National Forest.

AGRICULTURAL SETTLEMENT.

ACT OF JUNE 11, 1906 (34 STAT., 233).

The Secretary of Agriculture may, in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain as to the location and extent of lands within permanent or temporary forest reserves [except the following counties in the State of California: San Luis Obispo and Santa Barbara^a], which are chiefly valuable for agriculture, and which, in his opinion, may be occupied for agricultural purposes without injury to the forest reserves, and which are not needed for public purposes, and may list and describe the same by metes and bounds, or

Secretary of Agriculture may list agricultural land for settlement. otherwise, and file the lists and descriptions with the Secretary of the Interior, with the request that the said lands be opened to entry in accordance with the provisions of the homestead laws and this act.

Secretary of the Interior shall open such lands to settlement. Upon the filing of any such list or description the Secretary of the Interior shall declare the said lands open to homestead settlement and entry in tracts not exceeding one hundred and sixty acres in area and not exceeding one mile in length at the expiration of sixty days from

the filing of the list in the land office of the district within which the lands are located, during which period the said list or description shall be prominently posted

Advertisement. in the land office and advertised for a period of not less than four weeks in one newspaper of general circulation published in the county in which the lands are situated: *Provided*, That any settler actually occupying and in good faith claiming such lands for agricultural purposes prior to January first, nineteen hundred and

six, and who shall not have abandoned the same, and the person, if qualified to make a homestead entry, upon whose application the land proposed to be entered was examined and listed, shall, each in the order named, have a preference right of settlement and entry: *Provided further*, That any entryman desiring to obtain patent to any lands described

Surveys by metes and bounds. by metes and bounds entered by him under the provisions of this act, shall, within five years of the date of making settlement, file, with the required

^a The exception of other counties in southern California was repealed by act May 29, 1908 (Public, 173).

proof of residence and cultivation, a plat and field notes of the lands entered, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of such lands, which shall be distinctly marked

Posting notices. by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place on the land embraced in such plat during the period prescribed by law for the publication of his notice of intention to offer proof, and that a copy of such plat and field notes shall also be kept posted in the office of the register of the land office for the land

Secretary may survey by metes and bounds.

Entries may not be commuted.

district in which such lands are situated for a like period; and further, that any agricultural lands within forest reserves may, at the discretion of the Secretary, be surveyed by metes and bounds, and that no lands entered under the provisions of this act shall be patented under the commutation provisions of the home-^[234]stead laws, but settlers, upon final proof, shall have credit for the period of their actual residence upon the lands covered by their entries.

SEC. 2. That settlers upon lands chiefly valuable for agriculture within forest reserves on January first, nineteen hundred and six, who have already exercised or lost their homestead privilege, but are otherwise competent to enter lands under the homestead laws, are hereby granted an additional homestead right to enter for the purposes of this act only, and such settlers must otherwise comply with the provisions of the homestead law, and in addition thereto must pay two dollars and fifty cents per acre for lands entered under the provisions of this section, such payment to be made at the time of making final proof on such lands.

SEC. 3. That all entries under this act in the Black Hills Forest Reserve shall be subject to the quartz or lode mining laws of the United States, and the laws and regulations permitting the location, appropriation, and use of the waters within the said forest reserves for mining, irrigation, and other purposes; and no titles acquired to agricultural lands in said Black Hills Forest Reserve under this act shall vest in the

Restriction on water rights.

patentee any riparian rights to any stream or streams of flowing water within said reserve; and that such limitation of title shall be expressed in the patents for the lands covered by such entries.

SEC. 4. That no homestead settlements or entries shall be allowed in that portion of the Black Hills Forest Reserve in Lawrence and Pennington counties, in South Dakota [except the following-described townships in the Black Hills Forest Reserve, in Pennington County, to wit: Townships one north, one east; two north, one east; one north, two east; two north, two east; one south, one east; two south, one east; one south, two east; and two south, two east, Black Hills meridian,^a] except to persons occupying lands therein prior to January first, nineteen hundred and six, and the provisions of this act shall apply to the said counties in said reserve only so far as is necessary to give and perfect title of such settlers or occupants to lands chiefly valuable for agriculture therein occupied or claimed by them prior to the said date, and all homestead entries under this act in said counties in said reserve shall be described by metes and bounds survey.

Lawrence and Pennington counties excepted.

Actual settlers prior to January 1, 1906, excepted.

SEC. 5. That nothing herein contained shall be held to authorize any future settlement on any lands within forest reserves until such lands have been opened to settlement as provided in this act, or to in any way impair the legal rights of any bona fide homestead settler who has or shall establish residence upon public lands prior to their inclusion within a forest reserve.

Settlement before opening is trespass.

TEMPORARY LEAVES OF ABSENCE FOR HOMESTEAD SETTLERS.

JOINT RESOLUTION OF JANUARY 18, 1907 (34 STAT., 1419).

Homestead settlers upon the public domain in North Dakota, South Dakota, Wyoming, Minnesota, Idaho,^b Washington,^b and Montana are hereby granted a leave of absence from their land for a period of three months from the date of the approval of this resolution: *Provided*, That the period of actual absence under this resolution shall not be deducted from the full time of residence required by law.

EXTENSION OF TIME.

JOINT RESOLUTION OF FEBRUARY 2, 1907 (34 STAT., 1421).

All persons who made homestead entry in the States of North Dakota, South Dakota, Idaho, Minnesota, Montana, Washington,

^a The words within brackets are from the act of February 8, 1907 (34 Stat., 883).

^b Added by joint resolution of February 2, 1907 (34 Stat., 1421).

and Wyoming, where the period in which they were, or are, required by law to make entry under such declaratory statement or establish residence expired or expires, after December first, nineteen hundred and six, are hereby granted until May fifteenth, nineteen hundred and seven, within which to make such entry or actual settlement and establish residence upon the lands so entered by them: *Provided*, That this extension of time shall not shorten either the period of commutation or of actual residence under the homestead law. * * *

COLLECTION OF ANTIQUITIES. NATIONAL MONUMENTS.

ACT OF JUNE 8, 1906 (34 STAT., 225).

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

SEC. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: *Provided*, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

SEC. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may

be: *Provided*, That the examinations, excavations, and findings are undertaken for the benefit of reputable museums, societies, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of objects, and that the gatherings shall be made for permanent preservation in public museums.

4. That the Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this act.

NOTE.—For the uniform rules and regulations, see page 296.

Trespass and Fire Laws.

TIMBER ON LANDS OF THE UNITED STATES.

REVISED STATUTES, SEC. 2461.

If any person shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting, or shall wantonly destroy, or cause or procure to be wantonly destroyed, or aid, assist, or be employed

in wantonly destroying any live-oak or red-cedar trees, or other timber standing, growing, or being on any land passed or hereafter to be passed, in pursuance of any law enacted for the use of the United States, for supplying therefrom timber for the Navy of the United States; or if any person shall remove, or cause or procure to be removed, or aid, assist, or be employed in removing from any land reserved or purchased any live-oak or red-cedar trees, or other timber, unless duly authorized to do by order, in writing, of a competent officer, and for the use of the Navy of the United States; or if any person shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting any live-oak or red-cedar trees, or other timber, or shall remove, or cause or procure to be removed, or aid, assist, or be employed in removing any live-oak or red-cedar trees, or other timber, from any other lands of the United States acquired, or hereafter to be acquired, with intent to export, dispose of, use, or employ the same in any manner whatsoever other than for the use of the Navy of the United States, every such person shall be fined a fine not less than three times the value of the timber so cut, destroyed, or removed, and shall be imprisoned exceeding twelve months.

Other lands of United States.

Penalty.

timber so cut, destroyed, or removed, and shall be imprisoned exceeding twelve months.

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NOTE.—The penalty here imposed applies to all timber on lands of the United States.

Rulings with regard to timber trespass on public land.

U. S. v. Briggs, 9 How., 351.

Homestead settlers may sell timber cut for cultivation purposes, but not otherwise.

Shiver v. U. S., 159 U. S., 491.

Stone v. U. S., 167 U. S., 178.

Clearing land for grazing purposes without ploughing it up is not cultivation within the meaning of the law.

U. S. v. Niemeyer, 94 Fed. Rep., 147.

Ignorance of the law is no defense.

U. S. v. Murphy, 32 Fed. Rep., 376.

It is error for the court to instruct the jury that the Government has always tacitly permitted the pioneer settlers to cut timber from the public domain.

U. S. v. Mock, 149 U. S., 273.

Persons may not carry off timber or other property from public lands and sell it for profit.

U. S. v. Mock, 149 U. S., 273.

TIMBER ON MINERAL LAND.

ACT JUNE 3, 1878 (20 STAT., 88).

(This act applies only to unreserved land not within National Forests.)

SEC. 1. All citizens of the United States and other persons, bona fide residents of the State of Colorado, or Nevada, or

either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or

Timber in mineral districts may be cut. Montana, and all other mineral districts of

the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time bona fide residents, subject to such rules and regulations as

the Secretary of the Interior may prescribe for the protection of the timber and of the

undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions

of this act shall not extend to railroad corporations.

NOTE.—By virtue of power granted to the Secretary of the Interior under act of June 3, 1878 (20

Stat., 88), said Secretary provides, in his "rules and regulations governing the use of timber on the public mineral lands"

Disposal of tops, brush, and other refuse.

(29 L. D., 571) : "Sec. 9. Persons felling or removing timber under the provisions of this act must utilize all of each tree cut that can be profitably used, and must dispose of the tops, brush, and other refuse in such manner as to prevent the spread of forest fires."

SEC. 2. It shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and

Duty of land officers. all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

[89] **SEC. 3.** Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

Penalty.

NOTE.—The Federal courts have held that this act applies only to the States and Territories of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.

U. S. v. Smith, 11 Fed., 487.

U. S. v. Benjamin, 21 Fed., 285.

U. S. v. English et al., 107 Fed., 867.

TRESPASS UNDER TIMBER AND STONE ACT.

ACT OF JUNE 3, 1878 (20 STAT., 89).

(This act is not a part of the above act of the same date, and since the act of August 4, 1892 (27 Stat., 348), has applied to all the public-land States, but not to the Territories.)

* * * * *

[90] **SEC. 4.** After the passage of this act it shall be unlawful to cut, or cause or procure to be cut, or wantonly destroy, any timber growing on any lands of the United States [in any public-land States], or remove, or cause to be removed, any timber from said public lands with intent to export or dispose of the same; and

Criminal trespass on public timber.

Vessels and railroads not to transport such timber. Penalty.

Farmers, miners, and officers of the U. S. allowed proper timber use.

no owner, master, or consignee of any vessel, or owner, director, or agent of any railroad, shall knowingly transport the same, or any lumber manufactured therefrom; and any person violating the provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined for every such offense a sum not less than one hundred nor more than one thousand dollars: *Provided*, That nothing herein contained shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; and the penalties herein provided shall not take effect until ninety days after the passage of this act.

SEC. 5. Any person prosecuted in * * * [any public-land States] for violating section 2461 of the Revised Statutes of the United States^a who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section 4751 of the Revised Statutes is hereby repealed, so far as it relates to * * * [the public-land States].

No title granted to party relieved.

Fines to be covered into U. S. Treasury. R. S., sec. 4751, repealed for public-land States.

NOTE 1.—The words in brackets in above section are inserted in place of the words "in said States and Territory," as ordered by amending act of Aug. 4, 1892 (27 Stat., 348).

NOTE 2.—This section relieves the trespasser from criminal but not from civil liability at common law.

U. S. v. Scott, 39 Fed. Rep., 900.

NOTE 3.—The other sections of this act, which is known as the "timber and stone act," provide for purchase of public-timber land.

^a See p. 245.

CUTTING FOR TURPENTINE.

ACT OF JUNE 4, 1906 (34 STAT., 208).

Every person who shall cut, chip, chop, or box any tree on any lands belonging to the United States or on any lands covered by or embraced in any unperfected settlement, application, filing, entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance; and every person who shall knowingly encourage, cause, procure, or aid any such tree to be so cut, or who shall buy, trade for, or in any manner acquire any pitch, turpentine, or other substance, or any article or commodity made from any pitch, turpentine, or other substance, when he has knowledge that the same has been so unlawfully obtained from such trees, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Cutting or boxing trees on public or entered land a misdemeanor.

SURVEY MARKS.

ACT OF JUNE 10, 1896 (29 STAT., 321).

[343] Hereafter it shall be unlawful for any person to destroy, deface, change, or remove to another place any section corner, quarter-section corner, or meander post on any Government line of survey, or to cut down any witness tree or any tree blazed to mark the line of a Government survey, or to deface, change, or remove any monument or bench mark of any Government survey. That any person who shall offend against any of the provisions of this paragraph shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court shall be fined not exceeding two hundred and fifty dollars, or be imprisoned not more than one hundred days. All the fines accruing under this paragraph shall be paid into the Treasury, and the informer, in each case of conviction, shall be paid the sum of twenty-five dollars.

Changing or removing survey marks a misdemeanor.

FENCE LAW.

ACT OF FEB. 25, 1885 (23 STAT., 321), AS AMENDED BY ACT OF MARCH 10, 1908 (Public, 45.)

[321] SEC. 1. That all inclosures of any public lands in any State or Territory of the United States, here-

Inclosure of public land without claim forbidden.

tofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such inclosure was or shall be made, are hereby declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure

Assertion of exclusive right.

is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and hereby prohibited.

SEC. 2. That it shall be the duty of the district attorney of

Civil suit. Affidavit by any citizen.

the United States for the proper district, on affidavit filed with him by any citizen of the United States that section one of this act is being violated, showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation, as nearly as may be, and by description, if the name can not on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district or circuit court, or Territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also hereby conferred on any United States district or circuit court, or Territorial district court, having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this act; and

Injunction.

it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceed-

ing on any agent or employee having charge or control of the inclosure; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day.

Summary destruction.

In any case, if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

[322] SEC. 3. That no person, by force, threats, intimidation, or by any fencing or inclosing, or any other

Obstruction of entry, settlement, or passage forbidden.

unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public lands laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: *Provided*, This section shall not be held to affect the right or title of persons who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.

SEC. 4.^a That any person violating any of the provisions hereof,

Criminal action. Penalty.

whether as owner, part owner, agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor, and fined in a sum not exceeding one thousand dollars or be imprisoned not exceeding one year, or both, for each offense.

SEC. 5. That the President is hereby authorized to take such

President may remove fence by force.

measures as shall be necessary to remove and destroy any unlawful inclosure of any of said lands, and to employ civil or military force as may be necessary for that purpose.

SEC. 6. That where the alleged unlawful inclosure includes

Inclosures of less than 160 acres.

less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this act without authority from the Secretary of the Interior.

^a Sec. 4 is here given as amended by act March 10, 1908 (Public, 45), which substituted fine or imprisonment for fine and imprisonment.

SEC. 7. That nothing herein shall affect any pending suits to work their discontinuance, but as to them **Pending suits not affected.** hereafter they shall be prosecuted and determined under the provisions of this act.

NOTE.—Fences on patented land, if they enclose public land, are prohibited by this act.

Camfield v. U. S., 167 U. S., 518.

TIMBER ON RESERVED LANDS.

ACT OF JUNE 4, 1888 (25 STAT., 166).

Section fifty-three hundred and eighty-eight of the Revised Statutes of the United States be amended so **as to read as follows:** "Every person who **Penalty for trespass.** unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys or procures to be wantonly destroyed, any timber standing upon the land of the United States which, in pursuance of law, may be reserved or purchased for military or other purposes, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under authority of the United States, shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court."

TRESPASS ON NATIONAL FORESTS.

ACT OF JUNE 4, 1897 (30 STAT., 11).

[35] The Secretary of the Interior shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been set aside or which may be hereafter set aside under the said act of March third, eighteen hundred and ninety-one, and which may be continued; and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this act or such rules and regulations shall be punished as is provided for in the act of June fourth, eighteen hundred and eighty-eight, amending section fifty-three hundred and eighty-eight of the Revised Statutes of the United States. (See above.)

Provisions for protection against fire, etc.

Rules and regulations.

Penalty.
25 Stat., 166.
R. S., sec. 5388.

FIRE LAW.

ACT OF MAY 5, 1900 (31 STAT., 169).

SEC. 1. Any person who shall willfully or maliciously set on fire, or cause to be set on fire, any timber, underbrush, or grass upon the public domain, or shall * * * leave or suffer fire to burn unattended near any timber or other inflammable material, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any district court of the United States having jurisdiction of the same, shall be fined in a sum [170] not more than five thousand dollars or be imprisoned for a term of not more than two years, or both.

Setting fires to timber on the public domain. Act Feb. 24, 1897, 29 Stat., 594, amended by act May 5, 1900, 31 Stat., 169.

Penalty.

NOTE.—Act of Feb. 24, 1897 (29 Stat., 594), is amended by the above section by omitting, where indicated by stars, the words “carelessly or negligently.”

SEC. 2. Any person who shall build a * * * fire in or near any forest, timber, or other inflammable material upon the public domain shall, before * * * leaving said fire, totally extinguish the same. Any person failing to do so shall be deemed guilty of a misdemeanor, and upon conviction thereof in any district court of the United States having jurisdiction of the same, shall be fined in a sum not more than one thousand dollars, or be imprisoned for a term of not more than one year, or both.

Leaving fire unextinguished on the public domain.

Penalty.

NOTE.—Act of Feb. 24, 1897 (29 Stat., 594), is amended by the above section by omitting, where indicated by stars, the words “camp fire or other” and “breaking camp or” respectively.

SEC. 3. That in all cases arising under this act the fines collected shall be paid into the public school fund of the county in which the lands where the offense was committed are situated.

WICHITA GAME REFUGE.

ACT OF JANUARY 24, 1905 (33 STAT., 614).

The President of the United States is hereby authorized to designate such areas in the Wichita Forest Reserve as should, in his opinion, be set aside for the protection of game animals and birds and be recognized as a breeding place therefor.

Game refuge.

Sec. 2. That when such areas have been designated as provided for in section one of this act, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture; and any person violating such regulations or the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction in any United States court of competent jurisdiction, be fined in a sum not exceeding one thousand dollars, or be imprisoned for a period not exceeding one year, or shall suffer both fine and imprisonment, in the discretion of the court.

Penalty.

Sec. 3. That it is the purpose of this act to protect from trespass the public lands of the United States and the game animals and birds which may be thereon, and not to interfere with the operation of the local game laws as affecting private, State, or Territorial lands.

GRAND CANYON GAME REFUGE.

ACT OF JUNE 29, 1906 (34 STAT., 607).

The President of the United States is hereby authorized to designate such areas in the Grand Canyon Forest Reserve as should, in his opinion, be set aside for the protection of game animals and be recognized as a breeding place therefor.

Sec. 2. That when such areas have been designated as provided in section one of this act, hunting, trapping, killing, or capturing of game animals upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture; and any person violating such regulations or the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction in any United States court of competent jurisdiction, be fined in a sum not exceeding one thousand dollars, or by imprisonment for a period not exceeding one year, or shall suffer both fine and imprisonment, in the discretion of the court.

Penalty.

Sec. 3. That it is the purpose of this act to protect from trespass the public lands of the United States and the game animals which may be thereon, and not to interfere with the operation of the local game laws as affecting private, State, or Territorial lands.

PROTECTION OF BIRDS.

ACT OF JUNE 28, 1906 (34 STAT., 536).

That it shall be unlawful for any person to hunt, trap, capture, willfully disturb, or kill any bird of any kind whatever or take the eggs of such birds on any lands of the United States which have been set apart or reserved as breeding [537] grounds for birds by any law, proclamation, or Executive order, except under such rules and regulations as may be prescribed from time to time by the Secretary of Agriculture.

SEC. 2. That any persons violating the provisions of this act shall be deemed guilty of a misdemeanor and shall, upon conviction in any United States court of competent jurisdiction, be fined in a sum not exceeding five hundred dollars or be imprisoned for a period not exceeding six months, or shall suffer both fine and imprisonment, in the discretion

of the court: *Provided*, That the provisions of this act shall not apply to the Black Hills Forest Reservation, in South Dakota.

ARRESTS.

ACT OF FEBRUARY 6, 1905 (33 STAT., 700).

All persons employed in the forest-reserve and national-park service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserves and national parks, and any person so arrested shall be taken before the nearest United States commissioner, within whose jurisdiction the reservation or national park is located, for trial; and upon sworn information by any competent person any United States commissioner in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said laws.

CRIMINAL APPEALS.

ACT OF MARCH 2, 1907 (34 STAT., 1246).

United States courts, writs of error in criminal cases to U. S. Supreme Court. A writ of error may be taken by and on behalf of the United States from the district or circuit courts direct to the Supreme Court of the United States in all criminal cases, in the following instances, to wit:

From a decision Demurrer to indictment. sustaining a demurrer to any indictment or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment is founded.

From a decision arresting a judgment of conviction for insufficiency of the indictment, where such decision is based upon the invalidity or construction of the statute upon which the indictment is founded.

Special plea in bar. From the decision or judgment sustaining a special plea in bar, when the defendant has not been put in jeopardy.

The writ of error in all such cases shall be taken within thirty days after the decision or judgment has been rendered, and shall be diligently prosecuted, and shall have precedence over

all other cases.

Pending the prosecution and determination of the writ of error in the foregoing instances, the defendant shall be admitted to bail on his own recognizance: *Provided*, That no writ of error shall be taken by or allowed the United States in any case where there has been a verdict in favor of the defendant.

GENERAL DECISIONS.

UNAUTHORIZED GRAZING IN NATIONAL FORESTS.

UNITED STATES v. DASTERVIGNES ET AL.

(Circuit court, N. D. California. August 18, 1902. 118 Fed. Rep., 199.)

1. FORESTS—REGULATION—RULES—DELEGATION OF LEGISLATIVE AUTHORITY.

The act of Congress approved June 4, 1897 (30 Stat., 35), authorized the Secretary of the Interior, in his superintendence of all forest reservations, to "make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction." *Held*, that the authority given the Secretary is not unconstitutional as a delegation of legislative authority.

2. SAME—USE OF PUBLIC LANDS.

The pasturing of sheep on the Stanislaus Forest Reservation having been forbidden by rule of the Secretary of the Interior under authority of act of June 4, 1897 (30 Stat., 35), user can not give a right of pasturage there.

3. SAME—USER.

Inasmuch as laches can not be invoked against the Government, user of Government lands for pasturage gives no right so to do.

4. SAME—RESTRAINING USE—BILL—ALLEGATIONS.

A bill seeking to restrain defendants from pasturing sheep on a certain forest reservation alleged that defendants drove several bands of sheep upon the reservation. *Held*, that a demurrer on the ground that there was a misjoinder of defendants was of no merit, since while it did not appear that the defendants committed several acts of trespass, it appeared there was a joint offense, and, even if the acts were several, they might all be included in one equitable action, the law and testimony applicable to each defendant being the same.

5. SAME—ALLEGATIONS—DAMAGES.

Where a bill to restrain the pasturage of sheep on a certain forest reservation alleged that the grasses, herbage, and undergrowth were injured by the tramping, traveling, and driving of the sheep, the allegations as to damage were sufficient to warrant continuance of a restraining order pendente lite.

DASTERVIGNES ET AL. v. UNITED STATES.

(Circuit court of appeals, ninth circuit. March 2, 1903. 122 Fed. Rep., 30.)

1. CONSTITUTIONAL LAW—DELEGATION OF LEGISLATIVE POWER—ACT AUTHORIZING REGULATIONS FOR FOREST RESERVATIONS.

The provisions of the sundry civil appropriation act of June 4, 1897, relating to forest reservations (30 Stat., 35 U. S. Comp. St., 1901, p. 1540), which authorizes the Secretary of the Interior to "make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction," and which itself prescribes the penalty for violation of such regulations, is not unconstitutional as delegating legislative power to an administrative officer, but is a valid delegation of power to make administrative regulations in relation to details necessary to carry out the purpose of the act.

2. FOREST RESERVATIONS—VALIDITY OF REGULATIONS—EXCLUSION OF SHEEP.

Rule 13, made and promulgated by the Secretary pursuant to such authority, which prohibits the pasturing of sheep and goats on public lands in the forest reservation, except in cases where permits for their limited grazing may be granted by the Land Department with the approval of the Secretary, is a proper and legitimate exercise of the authority conferred, which gives the Secretary the right to exclude from the reservations any class of live stock found to be destructive of the purpose for which they were created; and such rule can not be said to create an unjust or illegal discrimination against the owners of the sheep, which constitute a class of live stock differing from any other in respect to pasturage, and which has uniformly been recognized as a proper subject for special legislation and regulation.

3. SAME—INJUNCTION AGAINST PASTURAGE OF SHEEP—GROUNDS.

A bill filed by the United States to enjoin the pasturage of sheep in a forest reservation, in violation of the regulations prescribed by the Secretary of the Interior, alleged that the sheep pastured within the reservation were committing great and irreparable injury to the public lands therein and to the undergrowth, timber, and water supply. Affidavits filed in support of such allegations recited that the sheep of defendants destroyed undergrowth, young and growing trees and seedlings, and ate and destroyed the roots of the vegetation and grasses, leaving the ground bare and subject to disastrous washings by the rains, to the irreparable injury of the reservation. *Held*, that such allegation and showing constituted a sufficient ground for the granting of a preliminary injunction.

4. EQUITY—SUFFICIENCY OF BILL—MULTIFARIOUSNESS.

A bill by the United States against a number of defendants, to enjoin them from pasturing sheep in a forest reservation, is not subject to the objection of misjoinder and multifariousness where it alleges that defendants are pasturing two bands of sheep in the reservation, and contains no averments which show or indicate any separate or distinct rights or different interests as between the several defendants.

(See also *United States v. Tygh Valley Land and Live Stock Co.*; 76 Fed. Rep., 693.)

JOSEPH DENT *v.* THE UNITED STATES.

(Supreme court of Arizona. 76 Pac. Rep., 455.)

Appeal from the district court for the fourth judicial district,
before Justice R. E. Sloan.

On rehearing.

The appellant was convicted of the crime of pasturing sheep upon the public lands in a forest reservation, in violation of the rules of the Secretary of the Interior promulgated under authority of the act of Congress of June 4, 1897 (30 Stat., 35), which act provides that any violation of such rules shall be punished by fine or imprisonment. The former opinion of the court will be found in 71 Pac., 920.

Opinion by Kent, C. J.

A rehearing having been granted at this term of court, this case has been again argued by counsel. Since we rendered our decision at a former term, the case of the United States *v.* Dastervignes (122 Fed., 30) has been reported. In that case the circuit court of appeals for the ninth circuit has held that the act in question did not delegate legislative power to the Secretary and was not unconstitutional. Inasmuch as under the act creating the circuit courts of appeal such court exercises appellate jurisdiction over this court in criminal cases, such as the one at bar, we feel that a decision of that court, although made in a civil and not a criminal case, expressly holding that the act in question is constitutional and a valid delegation of power, is binding upon us in this case; and if it be true that, inasmuch as the sole question involved in this case is the constitutionality of the act, an appeal will not lie in this case from our decision to the circuit court of appeals—a question which it is not proper for us to determine—we still feel that the determination of the circuit court of appeals is binding upon us. An appeal does not lie from our decision in this case to the Supreme Court of the United States, and yet if such court had determined the question of the constitutionality of the act such determination would be binding upon us.

Inasmuch as the circuit court of appeals is a court exercising appellate jurisdiction over us in criminal cases of this character, we are in like manner bound by its determination upon this question, although the record may prevent an appeal being taken to such court in the particular case before us. Indeed,

2. FOREST RESERVATIONS—VALIDITY OF REGULATIONS—EXCLUSION OF SHEEP.

Rule 13, made and promulgated by the Secretary pursuant to such authority, which prohibits the pasturing of sheep and goats on public lands in the forest reservation, except in cases where permits for their limited grazing may be granted by the Land Department with the approval of the Secretary, is a proper and legitimate exercise of the authority conferred, which gives the Secretary the right to exclude from the reservations any class of live stock found to be destructive of the purpose for which they were created; and such rule can not be said to create an unjust or illegal discrimination against the owners of the sheep, which constitute a class of live stock differing from any other in respect to pasturage, and which has uniformly been recognized as a proper subject for special legislation and regulation.

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A bill filed by the United States to enjoin the pasturage of sheep in a forest reservation, in violation of the regulations prescribed by the Secretary of the Interior, alleged that the sheep pastured within the reservation were committing great and irreparable injury to the public lands therein and to the undergrowth, timber, and water supply. Affidavits filed in support of such allegations recited that the sheep of defendants destroyed undergrowth, young and growing trees and seedlings, and ate and destroyed the roots of the vegetation and grasses, leaving the ground bare and subject to disastrous washings by the rains, to the irreparable injury of the reservation. *Held*, that such allegation and showing constituted a sufficient ground for the granting of a preliminary injunction.

4. EQUITY—SUFFICIENCY OF BILL—MULTIFARIOUSNESS.

A bill by the United States against a number of defendants, to enjoin them from pasturing sheep in a forest reservation, is not subject to the objection of misjoinder and multifariousness where it alleges that defendants are pasturing two bands of sheep in the reservation, and contains no averments which show or indicate any separate or distinct rights or different interests as between the several defendants.

(See also *United States v. Tygh Valley Land and Live Stock Co.*; 76 Fed. Rep., 693.)

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On rehearing.

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Opinion by Kent, C. J.

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Inasmuch as the circuit court of appeals is a court exercising appellate jurisdiction over us in criminal cases of this character, we are in like manner bound by its determination upon this question, although the record may prevent an appeal being taken to such court in the particular case before us. Indeed,

if it be true that no appeal lies to any court from our decision in capital cases or in criminal cases where the constitutionality of a Federal statute is the sole question involved, but the right of review of our decisions in criminal cases is confined to the appellate jurisdiction of the circuit court of appeals in minor criminal cases, and when less important questions are involved this somewhat anomalous condition of the law should not prevent our recognizing the binding force of a determination of such circuit court of appeals upon such constitutional questions, since if the record in this case presented other questions for review, thereby giving it jurisdiction, such court undoubtedly would have the right to and would review in connection therewith our determination upon the constitutional question involved. Therefore if it be that the correctness of our determination upon the constitutional question can not be passed upon by such court in this particular case, it is perhaps for that reason all the more incumbent upon us to follow in the path marked out for us by that court.

Farnsworth *v.* Montana, 129 U. S., 104;
Cross *v.* United States, 145 U. S., 571;
Chapman *v.* United States, 164 U. S., 436;
In re Heath, 144 U. S., 92;
Carter *v.* Roberts, 177 U. S., 496;
Holt *v.* Indiana Co., 80 Fed., 1;
Texas & P. R. Co. *v.* Blook, 60 Fed., 979;
Hubinger Co. *v.* Ry. Co., 98 Fed., 897;
Davis *v.* Burke, 97 Fed., 501.

As we feel that we are in any event controlled by the decision on the Dastervignes case we do not think it necessary to state to what extent we have changed our views from our original holding in the light of a further examination of the question and the fuller discussion afforded us upon the reargument.

Judgment will be entered affirming the judgment entered in the lower court in favor of the United States.

THE UNITED STATES *v.* DOMINGO ET AL.

(152 Fed. Rep., 566.)

In the district court of the United States within and for the central division of the district of Idaho. March 14, 1907.

BEATTY, *District Judge.*

The indictment is for trespass upon a forest reserve by driving and grazing sheep thereon without a permit. To this indictment the defendants have demurred.

By the act of June 4, 1897, 30 Stat., 34-36, in modification of a prior act for the creation of forest reserves, it is, among other provisions, enacted, that—

The Secretary of the Interior * * * may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use, and to preserve the forests thereon from destruction, and any violations of the provisions of this act [567] or of such rules and regulations shall be punished as is provided for in the act of June fourth, eighteen hundred and eighty-eight;

which said last act provides as follows:

Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon the land of the United States * * * shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court.

By reason of such statutes the Secretary promulgated certain rules and regulations, a part of No. 72 of which is that—

The following acts are hereby forbidden and declared to constitute trespass, punishable by fine and imprisonment:

(a) Grazing upon or driving across a forest reserve any live stock without a permit, except as otherwise allowed by regulation.

The defendants claim that the Secretary is not authorized by Congress to make the above rule, and that if it intended to grant such authority it was an attempt to delegate legislative power, which is *ultra vires*. It is too well settled to admit any doubt that Congress can not delegate to any other body or person any authority to legislate, but it is also as well settled that it may authorize an executive officer to formulate rules and regulations for the full and explicit enforcement of the law enacted and according to its full intent and spirit. To discuss either of these questions would be a wasteful use of time. Very many of the acts of Congress contain such delegation of authority. Had it not the power to do so, many of its statutes would be largely nugatory, for it is impossible for it to anticipate the various questions that may arise in the enforcement of its laws and to provide for them. The objections made in this case to the rule is the same that is usually made to other like rules. The solution of the question must in each case be reached by

determining whether the rule is an attempt to create a law or simply a regulation or means of enforcing a law already enacted. If the former, it is void: if the latter, it is as valid as the law itself. There is no doubt as to the rule of decision, but in some instances the question is so close that it is difficult to conclude how the rule should be construed. In this instance the statute says that the Secretary "may make such rules and regulations and establish such service as will insure the objects of such reservation." But it does not leave him to determine what such objects are: it states them: First, "to regulate their *occupancy* and *use*;" and, second, "to preserve the forests thereon from destruction." Clearly Congress contemplated that these reserves should be occupied and used, but in what manner, by whom, and for what purposes, it leaves the Secretary to regulate by rules. Rules to prevent any occupation or use would be contrary to the statute, but those simply to regulate such occupation and use are what the statute expressly authorizes, and are valid.

While the provisions of the statute for the preservation of the forests from destruction probably refers to the wanton destruction of the timber, yet the occupancy has an important effect upon such preservation. If the occupation by animals or otherwise is such as to destroy the growing, tender trees, the final deterioration and destruction of the forest must follow.

My conclusion is, that in so far as this regulation 72 forbids any [568] grazing or driving of live stock upon or across the reservation without a permit, it is not legislation, but is only a rule within the authority of Congress to regulate the occupation and use and is valid. But the rule goes further and directs a fine and imprisonment for such unpermitted acts. It must be doubted that the Secretary can direct any punishment that is not directly provided for, or distinctly implied by the act. The most that can be held against this portion of the regulation is that it is surplusage, but which does not invalidate the balance of the rule. If no punishment were provided by the act, he could not direct any; if the act does provide a punishment, he can not modify it. The act does, however, provide a punishment by applying to the offenses in this act, the penalty provided for offenses named in the act of June 4, 1888. By this latter act a punishment of not over \$500 fine, or imprisonment of not over twelve months, or both, is provided. But the regulation in directing fine *and* imprisonment is obnoxious to the statute which provides for fine *or* imprisonment. This statute of 1897 distinctly defines the penalty as the same prescribed by the statute of 1888. But defendants' counsel argues that as the penalty provided by the act of 1888 is for the cutting of timber

and other offenses therein named, and does not provide for the offense charged in this indictment, it follows that there is no penalty provided for this offense. Careful examination of the statute can not lead to such conclusion. It—the act of 1897—says that “any violation of the provisions of this act or such rules and regulations shall be punished as provided for in the act of June 4, 1888.” This is not a statement that the penalty prescribed by the former act can be applied only to the class of offenses therein named, but it is a direction that such penalty shall be applied also to the offenses described in the later act. Congress very often, in defining an offense, applies it to the same penalty provided for some other offense, described in some other act. Clearly that is all that is done in this case.

My conclusion then is that the Secretary in making the rule referred to was duly authorized, and that the statute itself has prescribed the penalty for its violation.

The demurrer is overruled.

NOTE.—To the same effect is the decision of Judge De Haven (October 2, 1906) in the district court of the United States for the northern district of California (*United States v. Deguirre*, 152 Fed. Rep., 568), and the decision of Judge Carland (U. S. Dist. Ct., S. Dak., Sept. 3, 1907), in *United States v. Bale* (156 Fed. Rep., 687).

Contra U. S. v. Blasingame, 116 Fed. Rep., 654; U. S. v. Matthews, 146 Fed. Rep., 306.

UNITED STATES v. SHANNON.

(Circuit Court, D. Montana. March 18, 1907. 151 Fed. Rep., 863.)

No. 725.

1. PUBLIC LANDS—FOREST RESERVES—REGULATIONS.

Article 4, § 3, of the Federal Constitution, which provides that “Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States,” conferred ample authority on Congress to enact the legislation authorizing the establishing of forest reserves on the public lands and the making of rules and regulations by the Secretary of the Interior “to insure the objects of such reservations,” and the rules and regulations so made as contained in the compilation of October 3, 1903, relating to the grazing of stock on such reserves are within the authority so conferred, and reasonable and valid.

2. SAME—VALIDITY OF REGULATIONS—STATE POLICY OR LAWS.

The United States Government has always maintained its right to the exclusive possession of the public lands, although such right has not always been exercised, and the policy of a State to permit live stock to run at large and graze on all open lands, or its laws enacted to carry such policy into effect, can not affect the right of the General Government to re[864]quire stock owners to restrain their stock from grazing on the national forest reserves except under prescribed regulations.

3. SAME.

Ordinance No. 1, Const. Mont., providing that "the people inhabiting the said proposed State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof," which was adopted pursuant to the requirement of the enabling act, under which the State was organized, was a clear recognition of the exclusive authority of the General Government over the public lands within the State.

United States circuit court of appeals for the ninth circuit (February 3, 1908).

THOMAS SHANNON, APPELLANT, *v.* UNITED STATES OF AMERICA,
APPELLEE. No. 1489.*

RANSOM COOPER for the appellant.

CARL RASCH, United States attorney, for the appellee.

Before GILBERT, ROSS, and MORROW, Circuit Judges.

The appellant was the defendant in a suit brought by the United States to enjoin him from driving, conducting, or causing or permitting to be driven or conducted his live stock on the Little Belt Mountains Forest Reserve and permitting the same to remain there. The bill alleged that during the month of December, 1904, and at divers times prior thereto, the appellant "wrongfully and unlawfully, and without right or authority, and without the consent and against the wishes of the complainant, the United States of America, and its officers and agents, and without having obtained a permit from the Secretary of the Interior, or the Commissioner of the General Land Office, or any officer or agent of complainant, and in violation of law, and in utter disregard of the rules and regulations of the Secretary of the Interior, did drive and conduct, and cause

* Not yet reported when Use Book goes to press. Affirms decision in last preceding case.

to be driven and conducted, and permitted, suffered, and allowed to go onto and upon the said reserve three hundred head of cattle," and the bill proceeded to allege that said acts would be continued unless enjoined, and would result in permanent and irreparable damage and injury to said reserve and be destructive of the objects for which the reserve was created. Upon the filing of the bill a citation was issued requiring the appellant to show cause why an injunction pendente lite should not issue against him. On the hearing a temporary injunction was ordered as prayed for. [151 Fed. Rep., 863.] From that order the present appeal is taken.

The Little Belt Mountains Forest Reserve was created by the proclamation of the President on August 16, 1902. The appellant is in the possession of a tract of 320 acres, which adjoins that part of the reserve known as Lone Tree Park, of which 320 acres he acquired 160 acres under the homestead law, and the remaining 160 acres he holds by a lease from one Peterson, the owner, who acquired the same under the desert-land act. The grazing privileges on the reserve are divided into districts. Lone Tree Park is in district No. 4. It contains about 1,000 acres. On September 3, 1902, shortly after the reserve had been established, the appellant obtained his lease of Peterson's 160 acres. As soon as he had obtained the lease he turned from 3,000 to 3,500 head of sheep into the 320-acre tract, and later took them out and turned in cattle. When the appellant leased the land from Peterson, Peterson's land and his own were inclosed, but the appellant made openings in the Peterson fence on the side toward the reservation for the purpose of letting stock through on the reserve. The evidence shows that the fence was down in seven places, and that the gaps were from 30 to 90 feet wide. In some places the wires were weighted down with poles, in others with rocks. In other places the wires were raised and placed on top of posts, so as to enable the stock to pass underneath. The evidence shows, moreover, that if the fence were maintained in good condition stock could not obtain access to Lone Tree Park because of the natural barriers which surround it. Every year since 1902 the appellant has thus grazed his cattle upon the reserve without any permit, and has disregarded the rules governing the use of the reserve and ignored the notices to keep his cattle off the reserve given him by the forest ranger. The evidence shows that the appellant's tract of 320 acres would not furnish pasture to more than 50 head of cattle, and that there is no water on it, and that he would turn the cattle into the inclosure and leave them there to drift over onto the reserve where there was pasture and water.

GILBERT, Circuit Judge, after stating the case as above, delivered the opinion of the court.

The appellant denies that he has at any time driven his cattle upon the reserve, and asserts that if they went there they did so of their own accord, the reserve not being inclosed by the United States, and that he is not accountable for the acts of the cattle in straying thereupon. We do not so regard the evidence, and we think the injunction issued by the court below may well be sustained on the ground that the evidence shows that the appellant drove his cattle upon the reserve. His home ranch was some 6 to 10 miles distant from the 320 acres inclosed near the reserve. He drove large bands of cattle within the 320 acres, which was inclosed on three sides but open on the side toward the reserve, and left them there. Of course he knew that they would not and could not remain in the inclosure, for there was no water there nor sufficient pasture for so large a herd. They did as he evidently expected them to do. They went through the convenient openings which he had made in his fence for that purpose. In *Lazarus v. Phelps* (152 U. S., 81-85) the court said: "So, if he lease a section of land adjoining an uninclosed section of another and stock his own section with a greater number of cattle than it could properly support, so that, in order to obtain the proper amount of grass, they would be forced to stray over upon the adjoining section, the duty to make compensation would be as plain as though the cattle had been driven there in the first instance. The ordinary rule that a man is bound to contemplate the natural and probable consequences of his own act would apply in such a case."

Counsel for the appellant seek support for their contention in the implied license to pasture on public lands, growing out of the custom by which such use has been permitted from the beginning of the Government, and in the decision in *Buford v. Houtz* (133 U. S., 320), in which the court recognized such license to use the public lands where they are left open and uninclosed, "and no act of the Government forbids their use." But the lands included in a forest reservation are no longer public lands within the purport of that decision, and the act of the Government does forbid their use. The creation of such a reservation severs the reserved land from the public domain, disposes of the same, and appropriates it to a public use. (*Wilcox v. Jackson*, 13 Peters, 498.) In pursuance of its policy of reserving for the public welfare public lands on which is growing timber or undergrowth, for the preservation of the timber and the water supply, as provided in the act of March 3, 1891 (26 Stats., 1103), and in order to make that act more

effective, Congress passed the act of June 4, 1897 (30 Stats., 35), whereby it vested in the Secretary of the Interior the power to "make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction." It was intended that this statute should be effective, and accomplish the results for which it was enacted. In pursuance of that authority, the Secretary of the Interior has promulgated rules regulating the number of cattle and other live stock that may pasture on the reservation, and the manner in which the owners thereof may obtain permission to use the reservation for that purpose. There can be no doubt that the rules are reasonable and are within the power so granted. In *Dastervignes v. United States* (122 Fed., 30, 34) this court said: "Rule 13, promulgated by the Secretary of the interior, is in accord with the provisions of the act of Congress, and in our opinion was a valid and legitimate exercise of the authority delegated to him to make such rules and regulations as would insure the objects of such reservations. The Secretary, in adopting this rule, acted simply as the arm that carries out the legislative will. He did not invade any of the functions of Congress. He did not make any law, but he exercised the authority given to him, and made rules to reserve the forests on the reserves from destruction. Such rules, within constitutional limits, have the force and effect of law, and it is the duty of courts to protect and enforce them, in order to uphold the law as enacted by Congress."

But the appellant contends that he was not bound to maintain a fence between his land and the Government reservation, nor to keep the fence that was there in repair; that he had the right to destroy or remove a fence which was his own property, and that it was for the appellee, if it desired to exclude live stock from the reservation, to inclose the same, or to take the necessary steps under the statutes of Montana to require adjacent proprietors to join in a division fence, and cites statutes of that State from which it appears that the legislature has in substance declared that cattle may run at large in Montana, and that all owners who neglect to fence their lands against such stock shall be without remedy against the owners of animals which may trespass thereon, and argues that those laws are binding upon the United States as a landowner to the same extent that they are binding upon the owners of other lands situated within the State, and that the Government, although in some positions and under certain defined conditions is a sovereign, it is, nevertheless, in the situation here presented, a mere private landowner, having the same rights, and no others, which are enjoyed by other landowners.

It is true that an appeal lies to any court from our decision in capital cases or in criminal cases where the constitutionality of a Federal statute is the sole question involved, but the right of review of our decisions in criminal cases is confined to the appellate jurisdiction of the circuit court of appeals in minor criminal cases, and when less important questions are involved the somewhat anomalous condition of the law should not prevent our recognizing the binding force of a determination of such circuit court of appeals upon such constitutional questions since if the record in this case presented other questions for review, thereby giving it jurisdiction, such court undoubtedly would have the right to and would review in connection therewith our determination upon the constitutional question involved. Therefore if it be that the correctness of our determination upon the constitutional question can not be passed upon by such court in this particular case, it is perhaps for that reason, and the more important upon us to follow in the path marked out for us by that court.

Parsons v. Montana, 129 U. S. 104;
Cross v. United States, 145 U. S. 511;
Chapman v. United States, 164 U. S. 436;
In re Heath, 144 U. S. 92;
Carver v. Roberts, 177 U. S. 436;
Holt v. Indiana, 60 Fed. 1;
Texas & P. R. Co. v. Block, 60 Fed. 979;
Hoblinger Co. v. Ry. Co., 58 Fed. 507;
Davis v. Burke, 57 Fed. 501.

As we feel that we are in any event controlled by the decision in the *Imbertvignes* case we do not think it necessary to state to what extent we have changed our views from our original holding in the light of a further examination of the question and the fuller discussion afforded us upon the reargument.

Judgment will be entered affirming the judgment entered in the lower court in favor of the United States.

THE UNITED STATES v. DOMINGO ET AL.

(152 Fed. Rep., 566.)

In the district court of the United States within and for the central division of the district of Idaho, March 14, 1907.

HEATY, District Judge.

The indictment is for trespass upon a forest reserve by driving and grazing sheep thereon without a permit. To this indictment the defendants have demurred.

By the act of June 4, 1897, 30 Stat., 34-36, in modification of a prior act for the creation of forest reserves, it is, among other provisions, enacted, that—

The Secretary of the Interior * * * may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use, and to preserve the forests thereon from destruction, and any violations of the provisions of this act [567] or of such rules and regulations shall be punished as is provided for in the act of June fourth, eighteen hundred and eighty-eight;

which said last act provides as follows:

Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon the land of the United States * * * shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court.

By reason of such statutes the Secretary promulgated certain rules and regulations, a part of No. 72 of which is that—

The following acts are hereby forbidden and declared to constitute trespass, punishable by fine and imprisonment:

(a) Grazing upon or driving across a forest reserve any live stock without a permit, except as otherwise allowed by regulation.

The defendants claim that the Secretary is not authorized by Congress to make the above rule, and that if it intended to grant such authority it was an attempt to delegate legislative power, which is *ultra vires*. It is too well settled to admit any doubt that Congress can not delegate to any other body or person any authority to legislate, but it is also as well settled that it may authorize an executive officer to formulate rules and regulations for the full and explicit enforcement of the law enacted and according to its full intent and spirit. To discuss either of these questions would be a wasteful use of time. Very many of the acts of Congress contain such delegation of authority. Had it not the power to do so, many of its statutes would be largely nugatory, for it is impossible for it to anticipate the various questions that may arise in the enforcement of its laws and to provide for them. The objections made in this case to the rule is the same that is usually made to other like rules. The solution of the question must in each case be reached by

determining whether the rule is an attempt to create a law or simply a regulation or means of enforcing a law already enacted. If the former, it is void: if the latter, it is as valid as the law itself. There is no doubt as to the rule of decision, but in some instances the question is so close that it is difficult to conclude how the rule should be construed. In this instance the statute says that the Secretary "may make such rules and regulations and establish such service as will insure the objects of such reservation." But it does not leave him to determine what such objects are; it states them: First, "to regulate their *occupancy and use*"; and, second, "to preserve the forests thereon from destruction." Clearly Congress contemplated that these reserves should be occupied and used, but in what manner, by whom, and for what purposes, it leaves the Secretary to regulate by rules. Rules to prevent any occupation or use would be contrary to the statute, but those simply to regulate such occupation and use are what the statute expressly authorizes, and are valid.

While the provisions of the statute for the preservation of the forests from destruction probably refers to the wanton destruction of the timber, yet the occupancy has an important effect upon such preservation. If the occupation by animals or otherwise is such as to destroy the growing, tender trees, the final deterioration and destruction of the forest must follow.

My conclusion is, that in so far as this regulation 72 forbids any [568] grazing or driving of live stock upon or across the reservation without a permit, it is not legislation, but is only a rule within the authority of Congress to regulate the occupation and use and is valid. But the rule goes further and directs a fine and imprisonment for such unpermitted acts. It must be doubted that the Secretary can direct any punishment that is not directly provided for, or distinctly implied by the act. The most that can be held against this portion of the regulation is that it is surplusage, but which does not invalidate the balance of the rule. If no punishment were provided by the act, he could not direct any; if the act does provide a punishment, he can not modify it. The act does, however, provide a punishment by applying to the offenses in this act, the penalty provided for offenses named in the act of June 4, 1888. By this latter act a punishment of not over \$500 fine, or imprisonment of not over twelve months, or both, is provided. But the regulation in directing fine and imprisonment is obnoxious to the statute which provides for fine or imprisonment. This statute of 1807 distinctly defines the penalty as the same prescribed by the statute of 1888. But defendants' counsel argues that as the penalty provided by the act of 1888 is for the cutting of timber

and other offenses therein named, and does not provide for the offense charged in this indictment, it follows that there is no penalty provided for this offense. Careful examination of the statute can not lead to such conclusion. It—the act of 1897—says that “any violation of the provisions of this act or such rules and regulations shall be punished as provided for in the act of June 4, 1888.” This is not a statement that the penalty prescribed by the former act can be applied only to the class of offenses therein named, but it is a direction that such penalty shall be applied also to the offenses described in the later act. Congress very often, in defining an offense, applies it to the same penalty provided for some other offense, described in some other act. Clearly that is all that is done in this case.

My conclusion then is that the Secretary in making the rule referred to was duly authorized, and that the statute itself has prescribed the penalty for its violation.

The demurrer is overruled.

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(Circuit Court, D. Montana. March 18, 1907. 151 Fed. Rep., 863.)

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1. PUBLIC LANDS—FOREST RESERVES—REGULATIONS.

Article 4, § 3, of the Federal Constitution, which provides that “Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States,” conferred ample authority on Congress to enact the legislation authorizing the establishing of forest reserves on the public lands and the making of rules and regulations by the Secretary of the Interior “to insure the objects of such reservations,” and the rules and regulations so made as contained in the compilation of October 3, 1903, relating to the grazing of stock on such reserves are within the authority so conferred, and reasonable and valid.

2. SAME—VALIDITY OF REGULATIONS—STATE POLICY OR LAWS.

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3. SAME.

Ordinance No. 1, Const. Mont., providing that "the people inhabiting the said proposed State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof," which was adopted pursuant to the requirement of the enabling act, under which the State was organized, was a clear recognition of the exclusive authority of the General Government over the public lands within the State.

United States circuit court of appeals for the ninth circuit (February 3, 1908).

THOMAS SHANNON, APPELLANT, v. UNITED STATES OF AMERICA, APPELLEE. No. 1489.^a

RANSOM COOPER for the appellant.

CARL RASCH, United States attorney, for the appellee.

Before GILBERT, ROSS, and MORROW, Circuit Judges.

The appellant was the defendant in a suit brought by the United States to enjoin him from driving, conducting, or causing or permitting to be driven or conducted his live stock on the Little Belt Mountains Forest Reserve and permitting the same to remain there. The bill alleged that during the month of December, 1904, and at divers times prior thereto, the appellant "wrongfully and unlawfully, and without right or authority, and without the consent and against the wishes of the complainant, the United States of America, and its officers and agents, and without having obtained a permit from the Secretary of the Interior, or the Commissioner of the General Land Office, or any officer or agent of complainant, and in violation of law, and in utter disregard of the rules and regulations of the Secretary of the Interior, did drive and conduct, and cause

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to be driven and conducted, and permitted, suffered, and allowed to go onto and upon the said reserve three hundred head of cattle," and the bill proceeded to allege that said acts would be continued unless enjoined, and would result in permanent and irreparable damage and injury to said reserve and be destructive of the objects for which the reserve was created. Upon the filing of the bill a citation was issued requiring the appellant to show cause why an injunction pendente lite should not issue against him. On the hearing a temporary injunction was ordered as prayed for. [151 Fed. Rep., 863.] From that order the present appeal is taken.

The Little Belt Mountains Forest Reserve was created by the proclamation of the President on August 16, 1902. The appellant is in the possession of a tract of 320 acres, which adjoins that part of the reserve known as Lone Tree Park, of which 320 acres he acquired 160 acres under the homestead law, and the remaining 160 acres he holds by a lease from one Peterson, the owner, who acquired the same under the desert-land act. The grazing privileges on the reserve are divided into districts. Lone Tree Park is in district No. 4. It contains about 1,000 acres. On September 3, 1902, shortly after the reserve had been established, the appellant obtained his lease of Peterson's 160 acres. As soon as he had obtained the lease he turned from 3,000 to 3,500 head of sheep into the 320-acre tract, and later took them out and turned in cattle. When the appellant leased the land from Peterson, Peterson's land and his own were inclosed, but the appellant made openings in the Peterson fence on the side toward the reservation for the purpose of letting stock through on the reserve. The evidence shows that the fence was down in seven places, and that the gaps were from 30 to 90 feet wide. In some places the wires were weighted down with poles, in others with rocks. In other places the wires were raised and placed on top of posts, so as to enable the stock to pass underneath. The evidence shows, moreover, that if the fence were maintained in good condition stock could not obtain access to Lone Tree Park because of the natural barriers which surround it. Every year since 1902 the appellant has thus grazed his cattle upon the reserve without any permit, and has disregarded the rules governing the use of the reserve and ignored the notices to keep his cattle off the reserve given him by the forest ranger. The evidence shows that the appellant's tract of 320 acres would not furnish pasture to more than 50 head of cattle, and that there is no water on it, and that he would turn the cattle into the inclosure and leave them there to drift over onto the reserve where there was pasture and water.

GILBERT, Circuit Judge, after stating the case as above, delivered the opinion of the court.

The appellant denies that he has at any time driven his cattle upon the reserve, and asserts that if they went there they did so of their own accord, the reserve not being inclosed by the United States, and that he is not accountable for the acts of the cattle in straying thereupon. We do not so regard the evidence, and we think the injunction issued by the court below may well be sustained on the ground that the evidence shows that the appellant drove his cattle upon the reserve. His home ranch was some 6 to 10 miles distant from the 320 acres inclosed near the reserve. He drove large bands of cattle within the 320 acres, which was inclosed on three sides but open on the side toward the reserve, and left them there. Of course he knew that they would not and could not remain in the inclosure, for there was no water there nor sufficient pasture for so large a herd. They did as he evidently expected them to do. They went through the convenient openings which he had made in his fence for that purpose. In *Lazarus v. Phelps* (152 U. S., 81-85) the court said: "So, if he lease a section of land adjoining an uninclosed section of another and stock his own section with a greater number of cattle than it could properly support, so that, in order to obtain the proper amount of grass, they would be forced to stray over upon the adjoining section, the duty to make compensation would be as plain as though the cattle had been driven there in the first instance. The ordinary rule that a man is bound to contemplate the natural and probable consequences of his own act would apply in such a case."

Counsel for the appellant seek support for their contention in the implied license to pasture on public lands, growing out of the custom by which such use has been permitted from the beginning of the Government, and in the decision in *Buford v. Houtz* (133 U. S., 320), in which the court recognized such license to use the public lands where they are left open and uninclosed, "and no act of the Government forbids their use." But the lands included in a forest reservation are no longer public lands within the purport of that decision, and the act of the Government does forbid their use. The creation of such a reservation severs the reserved land from the public domain, disposes of the same, and appropriates it to a public use. (*Wilcox v. Jackson*, 13 Peters, 498.) In pursuance of its policy of reserving for the public welfare public lands on which is growing timber or undergrowth, for the preservation of the timber and the water supply, as provided in the act of March 3, 1891 (26 Stats., 1103), and in order to make that act more

effective, Congress passed the act of June 4, 1897 (30 Stats., 35), whereby it vested in the Secretary of the Interior the power to "make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction." It was intended that this statute should be effective, and accomplish the results for which it was enacted. In pursuance of that authority, the Secretary of the Interior has promulgated rules regulating the number of cattle and other live stock that may pasture on the reservation, and the manner in which the owners thereof may obtain permission to use the reservation for that purpose. There can be no doubt that the rules are reasonable and are within the power so granted. In *Dastervignes v. United States* (122 Fed., 30, 34) this court said: "Rule 13, promulgated by the Secretary of the Interior, is in accord with the provisions of the act of Congress, and in our opinion was a valid and legitimate exercise of the authority delegated to him to make such rules and regulations as would insure the objects of such reservations. The Secretary, in adopting this rule, acted simply as the arm that carries out the legislative will. He did not invade any of the functions of Congress. He did not make any law, but he exercised the authority given to him, and made rules to reserve the forests on the reserves from destruction. Such rules, within constitutional limits, have the force and effect of law, and it is the duty of courts to protect and enforce them, in order to uphold the law as enacted by Congress."

But the appellant contends that he was not bound to maintain a fence between his land and the Government reservation, nor to keep the fence that was there in repair; that he had the right to destroy or remove a fence which was his own property, and that it was for the appellee, if it desired to exclude live stock from the reservation, to inclose the same, or to take the necessary steps under the statutes of Montana to require adjacent proprietors to join in a division fence, and cites statutes of that State from which it appears that the legislature has in substance declared that cattle may run at large in Montana, and that all owners who neglect to fence their lands against such stock shall be without remedy against the owners of animals which may trespass thereon, and argues that those laws are binding upon the United States as a landowner to the same extent that they are binding upon the owners of other lands situated within the State, and that the Government, although in some positions and under certain defined conditions is a sovereign, it is, nevertheless, in the situation here presented, a mere private landowner, having the same rights, and no others, which are enjoyed by other landowners.

The Federal Constitution delegates to Congress, absolutely and without limitations, the general power to dispose of and make all needful rules and regulations concerning the public land, whether it be situated in a State or in a Territory. (*Irvine v. Marshall*, 20 How., 558; *Jourdan v. Barrett*, 4 How. 168; *United States v. Gratiot*, 14 Pet., 526, 538; *Gibson v. Chouteau*, 13 Wall., 99.) The exercise of that power can not be restricted or embarrassed in any degree by State legislation. This is the effect of the constitutional provision, unaided by the special provision usually incorporated in the compact by which the States are admitted into the Union. The provision in the constitution of Montana, under which that State was admitted, declares "that the people of the proposed State of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof." The appellant contends that the portion of the ordinance just quoted is limited by the remainder thereof, which follows: "And to all lands lying within said limits owned or held by any Indian or Indian tribes, and until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States." It is argued that from this latter provision, expressly acknowledging that the Indian land shall remain under the absolute jurisdiction and control of Congress, it was not the intention that other lands should be subject to such jurisdiction and control. But it is wholly unnecessary to enter into a discussion of the construction of this provision of the constitution of the State of Montana. Congress had not the power to relinquish any of its jurisdiction over the public domain by any compact with that State, nor had that State the power to reserve any such control.

It is true that in *Pollard's Lessee v. Hagan et al.* (3 How., 212-223), concerning the powers vested in the State of Alabama on her admission into the Union, the following language was used in the opinion of the majority of the court: "Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in the cases in which it is expressly granted." But the doctrine so announced that the

United States has no general power to take lands within the boundaries of a State by the exercise of the right of eminent domain was expressly denied in the subsequent decision in *Cole v. United States* (91 U. S., 367), and in *Gibson v. Chouteau* (13 Wall., 92, 99) the court said: "As legislation of a State can only apply to persons and things over which the State has jurisdiction, the United States are also necessarily excluded from the operation of such statutes. With respect to the public domain, the Constitution vests in Congress the power of disposition and of making all needful rules and regulations. That power is subject to no limitations. Congress has the absolute right to prescribe the times, the conditions, and the mode of transferring this property or any part of it, and to designate the persons to whom the transfer shall be made. No State legislation can interfere with this right or embarrass its exercise." In *Camfield v. United States* (167 U. S., 519, 525) the court said: "The General Government doubtless has a power over its own property analogous to the police power of the several States, and the extent to which it may go in the exercise of such power is measured by the exigencies of the particular case. * * * While we do not undertake to say that Congress has the unlimited power to legislate against nuisances within a State which it would have within a Territory, we do not think the admission of a Territory as a State deprives it of the power of legislating for the protection of the public lands, though it may thereby involve the exercise of what is ordinarily known as the police power, so long as such power is directed solely to its own protection. A different rule would place the public domain of the United States completely at the mercy of State legislation."

In the light of these decisions, it is clear that the State of Montana had no dominion over the public lands lying within its borders, and no power to enact legislation directly or indirectly affecting the same. It could not give to the people of that State the right to pasture cattle upon the public domain, or in any way to use the same. Its own laws in regard to fencing and pasturing cattle at large must be held to apply only to land subject to its own dominion. No one within the State can claim any right in the public land by virtue of such a statute. The United States have the unlimited right to control the occupation of the public lands, and no obligation to fence these lands or to join with others in fencing them for the purpose of protecting its rights can be imposed on it by a State. The rights given by the State statutes to the subjects of the State extend only to the lands of the State. They end at the borders of the Government lands. At that border the laws of the United

States intervene and it is within their province to forbid trespass. Such laws being within the power of Congress, it is not necessary to discuss the question whether it is sovereign power or police power, or what may be its nature, for there is no power vested in the State which can embarrass or interfere with its exercise.

The appellant makes the further point that a court of equity can not recognize any sovereign right or power in a suitor appearing at its bar, and that the United States, having voluntarily come into court in its proprietary capacity as a landowner seeking a remedy, must ask and receive equity upon the same terms and conditions that any private person or corporation may. We may concede this to be true. When the United States consents to be sued in a civil court, or resorts thereto for the protection of Government property or redress for injury to the same, it becomes subject to the rules of pleading, practice, and law applicable to the case. But it does not and can not waive any of its rights in the subject of the controversy, and those rights must be protected by the court. The Government does not appear here in a sovereign capacity, or otherwise than as other suitors in a court of equity. The question for adjudication is, What are its rights under the averments set forth in the bill, and has the legislature of Montana the power to enact legislation which shall affect the public lands within the borders of that State or interfere with the right of the Government to protect those lands? In *Cotton v. The United States* (11 How., 220), the court said: "Although, as a sovereign, the United States may not be sued, yet as a corporation or body politic they may bring suits to enforce their contracts and protect their property, in the State courts or in their own tribunals administering the same laws."

The appellant argues that the maintenance of the injunction will impose a grievous burden upon him. But that objection is answered in the *Camfield* case, in which the court said: "The inconvenience, or even damage, to the individual proprietor does not authorize an act which is in its nature a purpresture of Government lands." And, besides, the appellant may relieve himself of the grievous burden by restoring the Peterson fence.

The order of the circuit court is affirmed.

(Indorsed:) Opinion. Filed February 3, 1908. F. D. Monckton, clerk.

[See also *U. S. v. Light* (unreported) U. S. circuit court for district of Colorado, April 20, 1908.]

FOREST RESERVATIONS—STATUTORY CONSTRUCTION—GRAZING
TRESPASS IS A CRIME.

(22 Op. Atty. Gen., 266.)

Congress has the right to place the control of the occupancy and use of forest reservations in the hands of the Secretary of the Interior for their preservation.

A criminal prosecution will lie to punish a person who grazes sheep in a forest reservation in violation of the regulations promulgated by the Secretary of the Interior pursuant to law.

Congress can not delegate its legislative power so as to authorize an administrative officer, by the adoption of regulations, to create an offense and prescribe its punishment.

DEPARTMENT OF JUSTICE,
Washington, D. C., November 17, 1898.

The SECRETARY OF THE INTERIOR.

SIR: Section 5388 of the Revised Statutes, as amended by the act of June 4, 1888 (25 Stat., 166), provides as follows:

Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys or procures to be wantonly destroyed, any timber standing upon the land of the United States which, in pursuance of law, may be reserved or purchased for military or other purposes, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under authority of the United States, shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court.

The act of June 4, 1897, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes," provides (28 Stat., 35):

The Secretary of the Interior shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been set aside or which may be hereafter set aside under the said act of March 3, 1891, and which may be continued; and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and

any violations of the provisions of this act or such rules and regulations shall be punished as is provided for in the act of June 4, 1888, amending section 5288 of the Revised Statutes of the United States.

[267] Under the authority thus conferred, the Secretary of the Interior, on June 30, 1897, promulgated certain rules and regulations for the purpose of regulating the occupancy and use of the forest reservations and to preserve the forests thereon from destruction, among which was the following:

13. The pasturing of live stock on the public lands in forest reservations will not be interfered with so long as it appears that injury is not being done to the forest growth and the rights of others are not thereby jeopardized. The pasturing of sheep is, however, prohibited in all forest reservations, except those in the States of Oregon and Washington, for the reason that sheep grazing has been found injurious to the forest cover, and therefore of serious consequence in regions where the rainfall is limited. The exception in favor of the States of Oregon and Washington is made because the southern pasture and abundant rainfall of the Cascade and Pacific coast ranges make rapid renewal of herbage and undergrowth possible, etc.

In view of the foregoing, you request my opinion whether a criminal prosecution will be required in a person who grazes sheep in a forest reservation in violation of the regulation quoted.

I recognize the existence of the statutory rule that Congress can not delegate its legislative powers so as to authorize an administrative officer, by the adoption of regulations, to create an offense and prescribe its punishment. But here the statute proclaims the punishment for an offense which in general terms is defined by law, the regulation dealing only with a matter of detail and administration necessary to carry into effect the object of the law. The protection of the public forest is entrusted to the Secretary of the Interior. Section 5288 makes it an offense, punishable by fine and imprisonment, for any person wantonly to destroy any timber on the public reservation. In furtherance of this policy the act of June 4, 1888, directs the Secretary to make provision for the protection of the forests and authorizes him to regulate the use and occupancy of the forest reservations and to preserve the forests thereon from destruction, making for such purpose proper rules and regulations. Any violation of such rules and regulations is by [268] the statute made an offense, punishable as provided in section 5288.

By this law the control of the occupancy and use of these reservations is handed over to the Secretary for the purpose of reserving the forests thereon, and any occupancy or use in violation of the rules and regulations adopted by him is made punishable criminally. It seems to me Congress has a right to do this. Suppose Congress had provided that the occupation of a forest reservation by any person, without permission of the Secretary, should be a misdemeanor. Would not this be a valid exercise of legislative power? The present statute does no more. The regulation is reasonable and necessary. It restrains no one in the enjoyment of any natural or legal right. I use the language of Mr. Chief Justice Fuller in *In re Kolck* (165 U. S., 526, 533):

The regulation was in execution of, or supplementary to, but not in conflict with, the law itself, and was specifically authorized thereby in effectuation of the legislation which created the offense.

Your question, therefore, is answered in the affirmative.

Very respectfully,

JOHN K. RICHARDS,
Solicitor-General.

Approved:

JOHN W. GRIGGS,
Attorney-General.

NATIONAL FOREST RESERVE—CONSERVATION CHARGE FOR USE OF LANDS OR RESOURCES.

(26 Op. Atty. Gen. 421.)

The Secretary of Agriculture is authorized by the act of February 15, 1901 (31 Stat., 790), to make the granting of permits for the use of lands or resources within the national forest reserves for the purposes contemplated by that act, which include irrigation, mining, and quarrying, etc., dependent upon the payment of such charges as he may deem reasonable.

Whether charges based upon the grounds specifically enumerated by the Secretary of Agriculture, to wit, the use of the ground and rights of way without regard to their special value for the particular purposes contemplated by the permit, and for "conservation," being the special value of the land for the particular purpose contemplated in excess of its value for general purposes, would or would not be reasonable, is not a question which can properly be determined by the Attorney-General.

Intimated, that the right to use water on the forest reserves can be secured only under the provisions of the act of June 4, 1897 (30 Stat., 35), and of other legislation specifically referring to the reserves, unless such rights existed before the particular reserve in question was created.

DEPARTMENT OF JUSTICE,
Washington, October 5, 1907.

The Honorable, The SECRETARY OF AGRICULTURE.

SIR: I have the honor to acknowledge the receipt of your letter of August 13 last past, requesting an opinion from me in regard to your authority to make a "conservation charge" as a condition for permits to use lands or resources within the limits of the National Forest reserves. The specific questions propounded by you are whether you have authority, in making such charges, to include a reasonable compensation—

1. For the use of the ground occupied by any reservoirs, diverting dams, or power stations, according to their area, without regard to its special value for the particular purpose contemplated by the permit.

2. For the right of way of any canal, flume, pipe, or pole line, according to its length, without regard to its special value for the particular purpose contemplated by the permit.

3. For "conservation," by which is meant all other advantages, opportunities, resources, or services, furnished by [422] the Government to the permittees, or damage suffered by it through the enjoyment of the permit; or, in other words, the special value of the land occupied by the permittee for the particular purpose contemplated by the permit in excess of its value for general purposes.

These permits are authorized by the act of February 15, 1901 (31 Stats., 790), of which the material portion is as follows:

*The Secretary of the Interior * * * is authorized and empowered, under general regulations to be fixed by him to permit the use of rights of way through the public lands, forests, and other reservations of the United States, and the Yosemite, Sequoia, and General Grant National parks, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber and lumber, or the supplying of water for domestic, public, or any other beneficial uses*

to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States; where it is intended by such to exercise the use permitted hereunder of any one or more of the purposes herein named: *Provided*, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the Department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all permits given hereunder for telegraph and telephone purposes shall be subject to the provisions of title sixty-five of the [423] Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: *And provided further*, That any permission given by the Secretary of the Interior under the provisions of this act may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park.

By section 1 of the act approved February 1, 1905 (33 Stats., 228), it is provided that—

The Secretary of the Department of Agriculture shall, from and after the passage of this act, execute or cause to be executed all laws affecting public lands heretofore or hereafter reserved under the provisions of section twenty-four of the act entitled "An act to repeal the timber-culture laws, and for other purposes, approved March third, eighteen hundred and ninety-one, and acts supplemental to and amendatory thereof, after such lands have been so reserved, excepting such laws as affect the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, or patenting of any such lands."

Section 5 of the same act is as follows:

That all money received from the sale of any products or the use of any land or resources of said forest reserves shall be covered into the Treasury of the United States, and for a period of five years from the passage of this act shall constitute a special fund, available until expended as the Secre-

tary of Agriculture may direct for the protection, administration, improvement, and extension of Federal forest reserves.

It appears to me that in so far as the questions relevant to your inquiry are questions of law they have been determined by the opinion of my predecessor, furnished to you on May 31, 1905. (25 Op., 470.) In that opinion Attorney-General Moody says:

Under the act of 1897 you are simply directed to so regulate the occupancy and use of these reservations as to insure the objects thereof and preserve the forests thereon from destruction. The act contains nothing inconsistent with the [424] making of a reasonable charge on account of the use of the reserves under the permit granted by you. By the act of 1905 you are to cover into the Treasury money received from the "use of any land or resources" of the reservations, which "shall constitute a special fund * * * for the protection, administration, improvement, and extension of the Federal forest reserves." Any sums of money realized in this connection would thus tend to preserve the forests and insure the objects of reservations, and it might therefore be contended that Congress in authorizing you to regulate their use and occupation considered the incidental question of charging for their use a proper subject to be left to your judgment and discretion. That such was the Congressional intent finds support in the fact that services somewhat analogous to compensation have been required for several years without any indication of a disapproval thereof on the part of Congress.

Furthermore, your power to prohibit absolutely the use or occupation of any forest reserve, when such action is deemed by you essential to insure its objects and preserve the forests from destruction, would probably be unquestionable, and that the authority to prohibit carries with it the right to attach conditions to a permission is well established. 22 Opin., 13, 27.)

In answer to your third question, therefore, I have to advise you that, in my opinion, you are authorized to make a reasonable charge in connection with the use and occupation of these forest reserves whenever, in your judgment, such a course seems consistent with insuring the objects of the reservation and the protection of the forests thereon from destruction.

The question under consideration in that case was whether you had authority to make a reasonable charge as a condition

of a permit under the act approved June 4, 1897 (30 Stat., 35), which authorized the Secretary of the Interior to—

Make such rules and regulations and establish such service as will insure the objects of such reservations, namely, *to regulate their occupancy and use* and to prevent the forests thereon from destruction.

[425] It will be observed that neither of these acts conferred upon the Secretary of the Interior expressly any authority to make a charge of any kind as a condition of granting the permits which they respectively authorized. It was held, however, by Attorney-General Moody that such authority was implied in the power conferred upon the Secretary by the act of 1897 to grant or refuse the permits, in his discretion, and the act of 1905 was referred to as substantially a legislative recognition of this authority on his part. If, however, the act of 1897 conferred upon the Secretary of the Interior—and, therefore, afterwards, upon the Secretary of Agriculture—the authority, in his discretion, to require payment of a reasonable charge as a condition of issuing any such permits as are authorized by the said act, it seems to me quite clear that the act of 1901, above quoted, conveys the like authority. The language of the later act appears to me more explicit than that of the former, and the intention of the Congress to leave the privileges granted under that act revocable in the discretion of the Secretary, as is expressly stated in the last proviso, above quoted, of the act of 1901, seems to be more nearly consonant with a purpose to intrust to his discretion all matters connected with the granting of such permits than is any relevant provision to be found in the act of 1897. I conclude, therefore, that you are authorized by the act of 1901 to make the granting of permits for the purposes contemplated by that act dependent upon the payment, by the persons receiving such permits, of such charges as you may deem reasonable for the purposes contemplated by the law.

Whether charges based upon the three grounds specifically enumerated in your letter requesting an opinion would or would not be reasonable is not, under the circumstances of this case, a question proper to be determined by this Department, but a matter left by the law entirely to your discretion. In *Riverside Oil Company v. Hitchcock* (190 U. S., 325), referred to in the opinion of Attorney-General Moody, above quoted, the court says: "The responsibility, as well as the power, rests with the Secretary, uncontrolled by the courts." This would seem to be no less true as to the question presented in the present case.

[426] It may be well for me to say, however, that I do not think it clear, as seems to be assumed in some of the papers for-

warded with your letter, that no charge can be made for water used by persons to whom permits may be granted under the act approved February 15, 1901. Such persons, independently of their permits, would have no right or authority to appropriate the waters within the forest reserves; at all events, for such a purpose as the production of electric power. It is true that the Congress and the courts have recognized a right to appropriate water on the public lands under State laws or local customs, but lands within the forest reserves are not covered by general statutes referring to the public lands; and the right to use water on such reserves can be secured, it would seem, only under the provisions of the act approved June 4, 1897, and of other legislation specifically referring to the reserves, unless, perhaps, such rights existed before the particular reserve in question was created. I do not, however, consider it necessary to express a positive opinion on this subject, since I understand from your letter that you do not intend to consider the value of the mere use of the water itself in fixing the compensation to be paid as a condition of permits for its use.

I advise you, therefore, in conclusion, that, in my opinion, you have the right to make what you believe to be a reasonable charge, as a condition of issuing permits under the act of February 15, 1901, and that your determination is decisive as to what charge is, or is not, reasonable for such purpose.

I remain, sir, yours, very respectfully,

CHARLES J. BONAPARTE,
Attorney-General.

SCHOOL LANDS.

Where a forest reservation includes within its limits a school section surveyed prior to the establishment of the reservation, the State, under the authority of the first proviso to section 2275, Revised Statutes, as amended by the act of February 28, 1891, may be allowed to waive its right to such section and select other land in lieu thereof. The decision herein of December 27, 1894, 19 L. D., 585, recalled and vacated. Instructions of December 19, 1893, 17 L. D., 576, modified. (State of California, 28 L. D., 57. [Compare *Hibberd v. Slack*, 84 Fed. Rep., 571.])

By the act of June 21, 1898, a grant, *in presenti*, of school lands is made to the Territory of New Mexico; and under the provisions of section 2275, Revised Statutes, as amended by the act of February 28, 1891, said Territory may relinquish its claim to such school sections as it may be entitled that are included within the limits of a forest reserve, and se-

lect other lands in lieu thereof. (Territory of New Mexico, 29 L. D., 365.)

[NOTE.—Certain provisions of act Feb. 28, 1901, were first extended to New Mexico by act March 16, 1908 (Public, 56).]

Unsurveyed sections 16 and 36 [in Oregon], embraced in land withdrawn for a forest reserve by proclamation dated September 28, 1893, plat of survey of which was approved January 13, 1894, and filed in local land office October, 1894, do not become property of State upon survey, but are a part of the forest reserve, and should be administered free from the claim of transferees of the State of Oregon. (Curtis Lumber Co., *ex parte*. Decision "R" of Commissioner of the General Land Office, unpublished, dated February 28, 1906.)

Under the grant of sections 16 and 36 made to the State of South Dakota for school purposes by the act of February 22, 1889, the State takes no vested interest or title to any particular land until it is identified by survey, and prior to such identification the grant, as to any particular tract, may be wholly defeated by settlement, the State's only remedy in such case being under the indemnity provisions of said act and of the act of February 28, 1891, amending sections 2275 and 2276 of the Revised Statutes. (State of South Dakota *v.* Riley, 34 L. D., 657.)

[NOTE.—This decision applies also to North Dakota, Montana, and Washington. The grant to Idaho and Wyoming was in the same terms, as was the grant of sections 2, 16, 32, and 36 to Utah. That these States, notwithstanding the language of their enabling acts as to the reservation of unsurveyed lands for school purposes, take no rights until the sections are identified by survey, is held by the supreme court of Montana in the case of Clemmons *v.* Gillette (33 Mont., 821; 83 Pac. Rep., 879), and by the attorney-general of Montana in his letter of June 17, 1907, to Mr. John P. Schmidt, register of the State land board.]

The title of the State [of South Dakota] to sections 16 and 36, by virtue of the grant for school purposes made to the several States named therein by the act of February 22, 1889, is not affected by the inclusion of the lands within a forest reserve prior to survey; but the State may, if it does not desire to await the termination of the forest reserve, select other lands in lieu of those included therein, and approval of such indemnity selections will operate as a complete extinguishment of all title in the State to the lands in place made the basis therefor. (35 L. D., 153.)

TIMBER CUTTING ON MINING CLAIMS.

The defendant in this case occupies the premises under this law [the mineral-land law] and claims the right to cut and remove the timber therefrom as incidental to and in aid of his right to mine thereon. But he is not the owner of the land until he pays for it and obtains the United States patent. It is a part of the public domain. In the meantime the defendant is occupying it under a mere license from the Government, which may be revoked at any time by the repeal of the act giving it. (Deady, J., in *U. S. v. Nelson*, 5 Sawyer, 68, 71 (1878).)

An occupant of a mineral claim who has applied for a patent has no right, before the purchase price is paid and he receives a certificate, to cut the timber on such claim with intent to export or remove the same, and a license from him to so cut the timber is no protection to the licensee as against the Government. (*Teller v. United States*, 113 Fed. Rep., 273. Syllabus.)

The exclusive right to occupy and work a mineral claim given to the locator by the mining laws during his occupancy does not segregate such claim from the public domain so as to exclude such land from the operation of Rev. Stat., 2461, 20 Stat., 89, and 27 Stat., 348, making it a misdemeanor for any person to cut timber on the public lands. (Same.)

TIMBER CUTTING ON HOMESTEAD CLAIMS.

The fact that lands may be chiefly valuable for the timber thereon does not exclude them from settlement and entry under the homestead law, but it must clearly appear that the settlement or entry upon such lands was made in good faith for the purpose of making the tract a home; and where the entryman in such case submits commutation proof and pays a price to cut short the period of residence required by the homestead law, he invites scrutiny and challenges judgment as to the good faith of his entry. (*Patten v. Quackenbush*, 35 L. D., 561. Syllabus.)

Taking into consideration the value of the timber and quality of the soil as shown by preponderant competent testimony, the meager residence and improvements, in view of his financial ability, the early final proof and termination of such residence, and the fact that claimant never had a domestic animal or fowl on this land or otherwise indicated an intention of permanently residing thereon, the Department is unable to find in the record any facts on which to

base a holding that the entry was made in good faith for a home and not for speculative purposes to dispose of the timber on the land. (Same case. Opinion, p. 564.)

MINERAL LANDS.

While the statute does not prescribe what is necessary to constitute a discovery under the mining laws of the United States, it is essential that it gives reasonable evidence of the fact either that there is a vein or lode carrying precious minerals, or if it be claimed as placer ground that it is valuable for such mining; and where there is not enough in what a locator claims to have seen to justify a prudent person in the expenditure of money and labor in exploitation, this court will not overthrow a finding of the lower court that there was no discovery. (*Chrisman v. Miller*, 197 U. S., 313. Syllabus.)

1 determining whether the claim here involved is a valid mining claim or possession, the question of the character of the land raised by the proceedings is a primary one. If the applicant has had ample time and opportunity to show by exploration and development whether valuable mineral deposits exist on the land, and has not done so, and has not in any manner established that the location embraced mineral land under the well-settled rules of determination in cases where the character of the land is directly in issue, his location can not be held to be a valid mining claim, or possession within the meaning of the law. (*Brophy et al v. O'Hare*, 34 L. D., 596, 598.)

Should the question of the character of the land be properly presented at any time before patent, it would manifestly be the duty of the [Interior] Department to ascertain whether or not the land contains "valuable deposits," in an *ex parte* case or a contest. The fact that a claim is contested would not change the character of the land to be taken under this law. In any event it must contain "valuable deposits." (*Royal K. Placer*, 13 L. D., 89.)

The Supreme Court has not determined what amount of gold will constitute "valuable deposits," and yet it has indicated in *U. S. v. Iron Silver Mining Company* (128 U. S., 673) that the deposit must be of substantial value. * * * The court says: "It is the policy of the Government to favor the development of mines of gold and silver and other metals, and every facility is afforded for that purpose; but it exacts a faithful compliance with the conditions required. There must be a discovery of mineral and a sufficient exploration of the ground to show this fact beyond question.

* * * If the land contains gold or other valuable posits in loose earth, sand, or gravel, which can be *secured with profit*, that fact will satisfy the demand of the Government as to the character of the land as placer ground. (Same.)

An actual discovery of mineral is a prerequisite to the location of a mining claim. (Etling et al. v. Potter, 17 L. D., 42 Syllabus.)

A certificate of the location of a mining claim can not be accepted as establishing the mineral character of a tract in the absence of other evidence showing an actual discovery of mineral. (Same.)

The existence of gold in nonpaying quantities will not preclude agricultural entry of the land. (Same.)

Under the established rule that, when public land is sought to be taken out of the category of agricultural lands, the evidence of its mineral character should be reasonably clear, the finding of colors of gold, even though fairly good prospects of gold, in placer prospecting, is not sufficient to establish the mineral character of the ground and to sustain a mineral location thereof as against a prior entry under the homestead laws. (Steele v. Tanana Mines R. Co., 148 Fed. Rep., 678. Syllabus.)

Some few pieces of asphaltum were found, but the principal result of what little prospecting and developing have been done is the finding of "indications" of mineral, and it can not be said that the indications found on these lands in section 21 of oil and asphaltum demonstrate that there is a permanent deposit of these minerals which will pay to work. (Tulare Oil & Mining Co. v. Southern Pacific R. Co., 29 L. D., 272.)

Where mineral is found, and it appears that a person of ordinary prudence would be justified in further expenditures with a reasonable prospect of success in developing a mine, the land may be properly regarded as mineral in character. (Walker v. Southern Pacific R. Co., 24 L. D., 172. Syllabus.)

Land must be held nonmineral where no discoveries of appreciable value have been made, and it does not appear that a further expenditure would develop the presence of minerals in paying quantities. (Reed et al. v. Lavallee et al., 26 L. D., 100. Syllabus.)

A single discovery is sufficient to authorize the location of a placer claim, and may, in the absence of any claim or evidence to the contrary, be accepted as establishing the mineral character of the entire claim sufficiently to justify the patenting thereof, but such single discovery does not con-

clusively establish the mineral character of all the land included in the claim, so as to preclude further inquiry in respect thereto. (*Ferrell et al. v. Hoge et al.*, 29 L. D., 12. Syllabus.)

The entire area that may be taken as a placer claim can not be acquired as appurtenant to placer deposits which are shown to exist only in a portion thereof. (Same.)

Where a part of the area embraced within a placer entry, in this instance twenty acres, is shown to contain no valuable mineral deposit subject to placer location, such part of the claim will be excluded from the entry. (Same.)

Deposits of fire clay or kaolin, being nonmetalliferous in character, are properly subject to entry as placers and not as lode claims. (*The Dobbs' Placer Mine*, 1 L. D., 565. Syllabus.)

Whatever is recognized as a mineral by the standard authorities, whether of metallic or other substances, when found in the public lands in quantity and quality sufficient to render the land more valuable on account thereof than for agricultural purposes, must be treated as coming within the purview of the mining laws. (*Pacific Coast Marble Co. v. Northern Pacific R. R. Co. et al.*, 25 L. D., 233. Syllabus.)

Lands valuable only on account of the marble deposit contained therein are subject to placer entry under the mining laws. (Same.)

Lands containing valuable mineral deposits, whether of the metalliferous or fossiliferous class, of such quantity and quality as to render them subject to entry under the mining laws, are "mineral lands" within the meaning of that term as used in the exception from the grant to the Northern Pacific Company for railroad purposes and to the State for school purposes. (Same.)

A deposit of "brick clay" will not warrant the classification of land as mineral, or entry thereof as a placer claim. (*Dunluce Placer Mine*, 6 L. D., 761. Syllabus.)

The mineral character of the land is established when it is shown to have upon or within it such a substance as (a) is recognized as mineral, according to its chemical composition, by the standard authorities on the subject, or (b) is classified as a mineral product in trade or commerce, or (c) such a substance (other than the mere surface, which may be used for agricultural purposes) as possesses economic value for use in trade, manufacture, or ornamental arts; and it is demonstrated that such substance exists therein or thereon in such quantities as render the land

more valuable for the purpose of removing and marketing the substance than for any other purpose, and the removing and marketing of which will yield a profit; or it is established that such substance exists in the lands in such quantities as would justify a prudent man in expending labor and capital in the effort to obtain it. (Rules for determining mineral character of land; Lindley on Mines vol. 1, sec. 98.)

Lands belonging to the United States can not be lawfully located or title thereto, by patent, legally obtained under the mining laws for purposes or uses foreign to those of mining or the development of minerals; and should it be shown in the case of an application for mineral patent that the claims applied for are not located in good faith for mining purposes, but for the purpose of securing control of a trail upon lands belonging to the United States, susceptible of such control by reason of the surrounding physical conditions, so as to place the claimant in a position to charge for the privilege of using the trail, and thereby to prevent the free and unrestricted use thereof by the public, such claims would be fraudulent from their inception, and patents thereto could not be obtained under the mining laws. (*Grand Canyon Railway Co. v. Cameron*, 36 L. D., 63.)

COAL LANDS.

The words "the existing mining laws of the United States" are to be construed, in legislative enactments, as embracing sections 2347 to 2352, inclusive, of the Revised Statutes, commonly known as the "coal-land law," unless an intention to the contrary is expressed. (*T. P. Crowder*, 30 L. D., 92.)

Coal lands are mineral lands within the meaning of the act of June 4, 1897, and as such are subject to entry, when found in forest reservations, the same as other mineral lands within such reservations. (*T. P. Crowder*, 30 L. D., 92.)

RAILROAD LANDS.

While the grant to the Northern Pacific Railroad Company under the act of July 2, 1864, was *in presenti*, and took effect upon the sections granted when the road was definitely located, by relation as to the date of the grant, the survey of the land and the identification of the sections—whether odd or even—is reserved to the Government, and the equitable title of the railroad company and its assigns

becomes a legal title only upon the identification of the granted sections. Until the identification of the sections by a Government survey the United States retains a special interest in the timber growing in the township sufficient to recover the value of timber cut and removed therefrom. (*United States v. Montana Lumber and Manufacturing Co.*, 196 U. S., 573. Syllabus.)

- a a suit brought by the United States for that purpose private surveys made by the railroad company can not be introduced as evidence to show that the land from which the timber was cut were odd sections within the grant and included in a conveyance from the railroad company to the defendants. (Same.)

WITHDRAWAL OF LAND FOR ADMINISTRATIVE SITES.

By letter dated March 20, 1908, the Secretary of the Interior held that public land outside the National Forests in the States of Oregon, Washington, Idaho, Montana, Colorado, and Wyoming may be withdrawn for use as administrative sites by the Forest Service, notwithstanding the provision of the agricultural appropriation act of March 4, 1907 (34 Stat., 1271, Use Book, p. 169), that no addition to National Forests in those States shall be made except by act of Congress. He said:]

The proposed withdrawal is not to be made under the laws authorizing the creation of forest reserves. The prohibition of the act of March 4, 1907, which was clearly directed against the exercise of authority given by those laws, should not be enlarged by construction to include a prohibition against the exercise of the recognized power of the Executive to set apart portions of the public land for a public use.

On May 15, 1908, however, the Comptroller of the Treasury decided that the appropriation for general expenses, Forest Service, made by the said act of March 4, 1907, can not be used for the purchase of administrative sites in these States.]

ADMINISTRATIVE REGULATIONS.
FEDERAL OFFICERS HOLDING STATE OFFICES.

EXECUTIVE ORDER.

Whereas, by an Executive order of January 17, 1873, it was declared that "persons holding any Federal civil office by appointment under the Constitution and the laws of the United States will be expected, while holding such office, not to accept or hold any office under any State or Territorial government, or under the charter or ordinances of any municipal corporation;"

And whereas, it is expedient that the Federal and State governments should cooperate for the better enforcement of the laws with regard to the forests and the protection of fish and game;

And whereas, the Congress, in acts passed June 30, 1906 (34 Stats., 669, 683), and March 4, 1907 (34 Stats., 1256, 1269), has directed that "hereafter officials of the Forest Service designated by the Secretary of Agriculture shall, in all ways that are practicable, aid in the enforcement of the laws of the States or Territories with regard to stock, for the prevention and extinguishment of forest fires, and for the protection of fish and game;"

And whereas, it seems that such cooperation can, in many instances, be best effected by allowing officers and employees of the Forest Service and Biological Survey of the United States Department of Agriculture to accept certain State and Territorial appointments and certain State and Territorial officials to receive appointments in the said Forest Service and Biological Survey.

Now, therefore, in consideration of the premises, I deem it proper to give public notice that hereafter State and Territorial foresters, and their technically trained assistants, unless prohibited by the laws of the State or Territory, may be allowed to serve as collaborators in the Federal Forest Service, and that officers and employees of the said Forest Service and Biological Survey, may, with the approval of the Secretary of Agriculture, accept appointments to positions on State and Territorial forest commissions and boards and to such other State and Territorial positions as will empower them to enforce or assist in enforcing

the local forest, stock, and game laws, provided the services to be rendered under such appointments do not interfere with the duties of their Federal employment.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *June 13, 1907.*

Right of Way for Railroads, Canals, Reservoirs, Etc.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., *April 25, 1906.*

AMENDATORY CIRCULAR.

In accordance with the agreement made by and between the Department of the Interior and the Department of Agriculture, paragraph 2 of the circular of February 11, 1904 (32 L. D., 481), and paragraphs 3 and 66 of the circular of September 28, 1905 (34 L. D., 212), except the last clause in each relative to construction in advance of approval or specific permission, which will remain as at present, are hereby amended so as to read as follows:

Whenever a right of way is located upon a forest or timber-land reserve, the applicant must enter into such stipulation and execute such bond as the Secretary of Agriculture may require for the protection of such reserves.

This amendment applies to forest or timber-land reserves only, not to national parks.

W. A. RICHARDS,
Commissioner.

Approved, April 25, 1906.

E. A. HITCHCOCK, *Secretary.*

REGULATIONS GOVERNING HOMESTEAD ENTRIES WITHIN NATIONAL FORESTS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 7, 1906.

REGISTERS AND RECEIVERS, U. S. Land Offices.

SIRS: Your attention is called to the act of June 11, 1906 (34 Stat., 233). This act authorizes homestead entries for lands within forest reserves, and you are instructed thereunder as follows:

[NOTE.—For copy of the act see p. 189.]

1. Both surveyed and unsurveyed lands within forest reserves which are chiefly valuable for agriculture and not needed for

public use may, from time to time, be examined, classified, and listed under the supervision of the Secretary of Agriculture, and lists thereof will be filed by him with the Secretary of the Interior, who will then declare the listed lands subject to settlement and entry.

2. Any person desiring to enter any unlisted lands of this character should present an application for their examination, classification, and listing to "The Forester, Washington, D. C.," in the manner prescribed by regulations issued by the Agricultural Department.

3. When any lands have been declared subject to entry under this act the land office for the district in which they are located will be furnished with a list thereof, and the register and receiver will immediately, upon receipt of such list, file it in their office, and at the same time issue notices of such filing and name therein the sixty-first day after the day on which the list is filed by them as the date on which the lands listed therein will be open to settlement and entry under the homestead laws.

4. The notice mentioned in the preceding paragraph should be substantially in the form of the notice hereto attached, and you will keep a copy of the notice of the filing of each list prominently posted in your office during the sixty days following such filing, and also publish a copy of the notice during that period for not less than four weeks in a newspaper of general circulation published in each county in which any of the lands are located, and if there be no newspaper published in such county you will publish the notice in a newspaper of general circulation published nearest the land.

5. The cost of publishing the notice mentioned in the preceding paragraph will not be paid by the receiver, but the publisher's vouchers therefor, in duplicate, should be forwarded through your office to this office, accompanied by a duly executed proof of publication.

6. In addition to the publication and posting, above provided for, you will, on the day the list is filed in your office, mail a copy of the notice to any person known by you to be claiming a preferred right of entry as a settler on any of the lands described therein, and also at the same time mail a copy of the notice to the person on whose application the lands embraced in the list were examined and listed and advise each of them of their preferred right to make entry prior to the expiration of sixty days from the date upon which the list is filed.

7. Any person qualified to make a homestead entry who, prior to January 1, 1906, occupied and in good faith claimed any lands listed under this act for agricultural purposes, and who has not abandoned the same, has a preferred right to enter such

contiguous tracts covered by his settlement as will not exceed 160 acres in area and not exceed 1 mile in length, at any time within sixty days from the date upon which the list of such lands was filed in your office.

8. The fact that a settler named in the preceding paragraph has already exercised or lost his homestead right will not prevent him from making entry of the lands settled upon if he is otherwise qualified to make entry, but he can not obtain patent until he has complied with all of the requirements of the homestead law as to residence and cultivation and paid \$2.50 per acre for the land entered by him.

9. The person upon whose application any land is listed under this act has, if he is qualified to make entry under the homestead laws, the preferred right to enter such contiguous tracts listed upon his application as will not exceed 160 acres in area and not exceed 1 mile in length, at any time within sixty days from the date on which the list embracing such lands was filed in your office, but his entry will be made subject to the right of any settler on such lands who makes entry within sixty days from the filing of the list in your office.

10. When an entry embraces unsurveyed lands, or embraces a tract which forms a fractional part of a quarter quarter section (40 acres), or embraces a fractional part of a lotted subdivision of a surveyed section, the entryman must cause such unsurveyed lands of such fractional parts to be surveyed by or under the direction of the United States Surveyor-General at some time before he applies to make final proof; but when all of any platted subdivision of a surveyed section is embraced in his entry he will not be required to resurvey such technical legal subdivision.

11. The commutation provisions of the homestead laws do not apply to entries made under this act, but all entrymen must make final proof of residence and cultivation within the time, in the manner and under the notice prescribed by the general provisions of the homestead laws, except that all entrymen who are required by the preceding paragraph to have their lands, or any portion of them, surveyed must within five years from the date of their settlement present to the register and receiver their application to make final proof on all of the lands embraced in their entries, with a certified copy of the plat and field notes of their survey attached thereto.

12. In all cases where a survey of any portion of the lands embraced in an entry made under this act is required the register will, in addition to publishing and posting the usual final-proof notices, keep a copy of the final-proof notice with a copy of the field notes and the plat of such survey attached

posted in his office during the period of publication, and the entryman must keep a copy of the final-proof notice and a copy of the plat of his survey prominently posted on the lands platted for at least thirty days prior to the day on which he offers his final proof, and at the same time his final proof is offered he must file an affidavit showing the date on which the copies of the notice and plat were posted on the land, and that they remained so posted for at least thirty days thereafter.

13. This act does not apply to any lands situated in the counties of Inyo, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego, in the State of California, and entries made for lands in the Black Hills Forest Reserve can only be made under the terms and upon the conditions prescribed in sections 3 and 4 of this act.

[NOTE.—The act of Feb. 8, 1907 (34 Stat., 883), excepted certain townships in the Black Hills from these conditions. (See p. 243.) The act of May 29, 1908 (Public 173), subjected to the operation of the act all the above-named counties in California except San Luis Obispo and Santa Barbara.]

14. This act does not authorize any settlements within forest reserves except upon lands which have been listed, and then only in the manner mentioned above, and all persons who attempt to make any unauthorized settlement within such reserves will be considered trespassers and treated accordingly.

Very respectfully,

G. F. POLLOCK,
Acting Commissioner.

Approved:

THOS. RYAN,
Acting Secretary.

MARCH 12, 1908.

REGISTERS AND RECEIVERS, U. S. Land Offices.

SIRS: Your attention is called to paragraph 8 of the regulations of July 23, 1907 (36 L. D., 30), relative to the surveying of lands entered within national forests, under the act of June 11, 1906 (34 Stats., 233), and you are informed that surveys of tracts entered under this act will not be required when such tracts can be described as quarter-quarter sections or lotted portions of surveyed sections, or as a quarter or a half of a surveyed quarter-quarter section or rectangular lotted tract, or as a quarter or a half of a surveyed quarter quarter-quarter section or rectangular lotted tract.

The requirements of that paragraph and of the act of June 11, 1906, extend only to unsurveyed lands and to parts of lotted subdivisions of surveyed sections which are not rectangular, and not to platted subdivisions or aliquot parts of such platted subdivisions as are rectangular.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved: March 12, 1908,

FRANK PIERCE,
First Assistant Secretary.

**REGULATIONS GOVERNING HEARINGS RESPECTING CLAIMED RIGHTS
UNDER THE PUBLIC LAND LAWS WITHIN NATIONAL FORESTS.**

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 26, 1907.

*To Registers and Receivers and
Special Agents of the General Land Office:*

The following circular is substituted for circular of May 3, 1907:

1. A Government officer in charge of any National Forest may initiate a contest or other proceedings before the Land Department respecting the unlawful occupation or use of land within a National Forest by reason of a claim made thereto under any of the public land laws.

2. As a basis for such proceeding, such officer shall file, in the local land office for the district in which the lands involved are located, a complaint signed by him in his official capacity, but not under oath or corroborated, setting forth facts respecting the alleged unlawful occupation or use of the public lands.

3. Upon filing of a sufficient complaint in any case in which final certificate has not issued, the register and receiver will issue a notice, with a copy of such complaint attached thereto, to the defendant, notifying him that unless he, within thirty days from the receipt of such notice, files in their office a denial or answer to such charges in writing and under oath, the truth of such charges will be taken as confessed by him, and any entry, filing, or claim asserted to such land, under the land laws by such party, may be declared forfeited or canceled without further notice to him.

4. When a complaint has been filed respecting any claim upon which final certificate has issued, or where denial under oath is filed in answer to a notice issued under the preceding paragraph, the same will be at once forwarded to the Commissioner of the General Land Office, and the further progress

of the matter will be in accordance with the circular of February 14, 1906, defining the manner of proceeding upon special agent's reports.

Very respectfully,

Approved June 26, 1907.

GEORGE W. WOODRUFF, *Acting Secretary.*

FRED DENNETT,
Acting Commissioner.

FINAL PROOF ON CLAIMS WITHIN FOREST RESERVES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 1, 1905.

REGISTERS AND RECEIVERS, U. S. Land Offices:

GENTLEMEN: Attention is called to the following reissue of the circular of April 8, 1905, with additions thereto suggested by the Forestry Bureau, Department of Agriculture. The original circular is in full force and effect, the reissue being deemed necessary to more fully emphasize the purpose of the original circular.

(1) Hereafter you will, when issuing notice of intention to make final proof upon claims, either mineral or nonmineral, within an established forest reserve, furnish a copy thereof to the Forest Supervisor in charge of such reserve in order that he may be enabled to be present at the taking of final proof to examine and cross-examine claimant and his witnesses, or may protest the passage of the mineral application to entry, as the case may be. In the former case, whenever the Supervisor may deem it necessary, the examination may be reduced to writing, at the cost of the claimant, and made a part of the final proof in that case. You will request the Forest Supervisor to make proper return of the proof notice, to be made a part of the case, with such notations thereon as he may consider best.

(2) You will carefully examine any proofs for claims within forest reserves, whether mineral or nonmineral, together with any evidence furnished by the Forest Supervisor or brought out by his examination, and either reject, suspend, or approve the same according to the following directions:

(3) If sufficient facts appear upon the face of the record, you will reject the final proof, advising claimant of your reasons therefor, with the right of appeal. No further action thereon will be required from the Forest Supervisor.

(4) If you believe the proof to be fraudulent or doubtful, but do not have sufficient reasons to justify its rejection, or if the Forest Supervisor has returned the notice with a definite pro-

test against the claim, you will suspend the proof and submit a brief statement of the facts in the case to the special agent in charge of the district in which said proof is made, such statement to include the names and addresses of claimants and witnesses, and your reasons for the suspension of the proof. You will forward the proof to this Office with a copy of your letter to the special agent. The special agent will then proceed to make such investigation as he may deem necessary, and to submit his report on the approved form. Upon the receipt of his report, appropriate action will be taken upon the entire record as then made up.

(5) If you believe the proof to have been made in good faith and that the law has been in all respects complied with, you will pass such proof to entry in the regular order, upon compliance by the claimant with all the requirements therein and on the payment of fees and commissions, but you will in no case issue final certificate or pass a mineral application to entry when any definite protest by a forest officer has been made against the claim.

(6) You will promptly notify the Forest Supervisor of whatever action you take in every case.

(7) The names and addresses of Forest Supervisors will be furnished you by this Office. Notices of claims in forest reserves in which there is no forest officer in charge should be forwarded to the Forester, Agricultural Department, Washington, D. C.

Very respectfully,

J. H. FIMPLE,
Acting Commissioner.

Approved:

THOS. RYAN,
Acting Secretary.

MANNER OF PROCEEDING UPON SPECIAL AGENTS' REPORTS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., November 25, 1907.

TO SPECIAL AGENTS AND REGISTERS AND RECEIVERS,

U. S. Land Offices:

The following rules are prescribed for the government of proceedings had upon the reports of special agents of this office. All existing instructions in conflict herewith are superseded:

1. The purpose hereof is to secure speedy action upon claims to the public lands, and to allow claimant, entryman, or other

claimant of record, opportunity to file a denial of the charges against the entry or claim, and to be heard thereon if he so desires.

2. Upon receipt of the special agent's report this office will consider the same and determine therefrom whether the charges, if true, would warrant the rejection or cancellation of the entry or claim.

3. Should the charges, if not disputed, justify the rejection or cancellation of the entry or claim the local officers will be duly notified thereof and directed to issue notice of such charges in the manner and form hereinafter provided for, which notice must be served upon the entryman and other parties in interest shown to be entitled to notice.

4. The notice must be written or printed and must state fully the charges as contained in the letter of this office, the number of the entry or claim, subdivision of land involved, name of entryman or claimant or other known parties in interest.

5. The notice must also state that the charges will be accepted as true, (a) unless the entryman or claimant files in the local office within thirty days from receipt of notice a written denial, under oath, of said charges, with an application for a hearing, (b) or if he fails to appear at any hearing that may be ordered in the case.

6. Notice of the charges may in all cases be served personally upon the proper party by any officer or person, or by registered letter mailed to the last address of the party to be notified, as shown by the record, and to the post-office nearest to the land. Proof of personal service shall be the written acknowledgment of the person served, or the affidavit of the person who served the notice attached thereto, stating the time, place, and manner of service. Proof of service of notice by registered mail shall consist of the affidavit of the person who mailed the notices, attached to the post-office registry return receipts, or the returned unclaimed registered letters.

7. If a hearing is asked for, the local officers will consider the same and confer with the special agent relative thereto and fix a date for the hearing, due notice of which must be given entryman or claimant. The above notice may be served by registered mail.

8. The chief of field division will duly submit, upon the form provided therefor, to this office, an estimate of the probable expense required on behalf of the Government. He will also cause to be served subpoenas upon the Government witnesses and take such other steps as are necessary to prepare the case for prosecution.

9. The special agent must appear with his witnesses on the date and at the place fixed for said hearing, unless he has reason

to believe that no appearance for the defense will be made, in which event no appearance on behalf of the Government will be required. The special agent must, therefore, keep advised as to whether the defendant intends to appear at the hearing. The chief of field division may, when present, conduct the hearing on behalf of the Government.

10. If the entryman or claimant fails to deny the charges under oath and apply for a hearing, or fails to appear at the hearing ordered, without showing good cause therefor, such failure will be taken as an admission of the truth of the charges contained in the special agent's report and will obviate any necessity for the Government's submitting evidence in support thereof.

11. Upon the day set for the hearing and the day to which it may be continued the testimony of witnesses for either party may be submitted, and both parties, if present, may examine and cross-examine the witnesses, under the rules, the Government to assume the burden of proving the special agent's charges.

12. If the entryman or claimant fails to apply for a hearing or to appear at a hearing applied for, as provided in paragraph 10, or if a hearing is had, as provided in paragraph 11, the local officers will render their decision upon the record, giving due notice thereof in the usual manner.

13. Appeals or briefs must be filed under the rules and served upon the special agent in charge of hearing. The special agent will not file any appeal or brief unless directed to do so by this office, or the chief of field division.

14. The above proceedings will be governed by the Rules of Practice. All notices served on claimants or entrymen must likewise be served upon transferees or mortgagee, as provided in Rule 8½ of Practice.

15. At the conclusion of the hearing the chief of field division will pay all proper charges for the Government's case, upon proper vouchers when required; and he will *at once* make return thereon to this office, showing the amount of authorization expended.

Very respectfully,

R. A. BALLINGER,
Commissioner.

Approved:

G. W. WOODRUFF,
Acting Secretary.

**INSTRUCTIONS TO CONFER WITH FOREST SUPERVISOR BEFORE FIXING
DATE FOR HEARING IN CASES IN NATIONAL FORESTS.**

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 18, 1908.

To CHIEFS OF FIELD DIVISION, General Land Office.

SIRS: When a hearing is applied for by any claimant for land within a National Forest, against whose claim or entry proceedings have been instituted under circular of November 24, 1907, upon report of a Forest officer, you will before fixing a date for the hearing confer with the proper Forest Supervisor, in the matter of the time and place for such hearing, in order that he may, if he so desires, arrange to be present with the witnesses by whom he expects his charges to be proved. The witnesses will, however, be subpoenaed by you as heretofore.

Whenever possible the attendance of the Forest officer should be secured, as his personal acquaintance with the facts and witnesses will be of great aid to the special agent having charge of the presentation of the case.

Very respectfully,

FRED DENNETT,
Assistant Commissioner.

UNIFORM RULES AND REGULATIONS.

By the Secretaries of the Interior, Agriculture, and War to carry out the provisions of the act for the preservation of American antiquities, approved June 8, 1906.

NOTE.—For copy of the act, see p. 244.

1. Jurisdiction over ruins, archæological sites, historic and prehistoric monuments and structures, objects of antiquity, historic landmarks, and other objects of historic or scientific interest, shall be exercised under the act by the respective Departments as follows:

By the Secretary of Agriculture over lands within the exterior limits of forest reserves; by the Secretary of War over lands within the exterior limits of military reservations; by the Secretary of the Interior over all other lands owned or controlled by the Government of the United States, provided the Secretaries of War and Agriculture may, by agreement, cooperate with the Secretary of the Interior in the supervision of such monuments and objects covered by the act of June 8, 1906, as may be located on lands near or adjacent to forest reserves and military reservations, respectively.

2. No permit for the removal of any ancient monument or structure which can be permanently preserved under the control

of the United States *in situ*, and remain an object of interest, shall be granted.

3. Permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity will be granted, by the respective Secretaries having jurisdiction, to reputable museums, universities, colleges, or other recognized scientific or educational institutions, or to their duly authorized agents.

4. No exclusive permits shall be granted for a larger area than the applicant can reasonably be expected to explore fully and systematically within the time limit named in the permit.

5. Each application for a permit should be filed with the Secretary having jurisdiction, and must be accompanied by a definite outline of the proposed work, indicating the name of the institution making the request, the date proposed for beginning the field work, the length of time proposed to be devoted to it, and the person who will have immediate charge of the work. The application must also contain an exact statement of the character of the work, whether examination, excavation, or gathering, and the public museum in which the collections made under the permit are to be permanently preserved. The application must be accompanied by a sketch plan or description of the particular site or area to be examined, excavated, or searched, so definite that it can be located on the map with reasonable accuracy.

6. No permit will be granted for a period of more than three years, but if the work has been diligently prosecuted under the permit the time may be extended for proper cause upon application.

7. Failure to begin work under a permit within six months after it is granted, or failure to diligently prosecute such work after it has been begun, shall make the permit void without any order or proceeding by the Secretary having jurisdiction.

8. Applications for permits shall be referred to the Smithsonian Institution for recommendation.

9. Every permit shall be in writing, and copies shall be transmitted to the Smithsonian Institution and the field office in charge of the land involved. The permittee will be furnished with a copy of these rules and regulations.

10. At the close of each season's field work the permittee shall report in duplicate to the Smithsonian Institution, in such form as its Secretary may prescribe, and shall prepare in duplicate a catalogue of the collections and of the photographs made during the season, indicating therein such material, if any, as may be available for exchange.

11. Institutions and persons receiving permits for excavation shall, after the completion of the work, restore the lands upon

which they have worked to their customary condition, to the satisfaction of the field officer in charge.

12. All permits shall be terminable at the discretion of the Secretary having jurisdiction.

13. The field officer in charge of the land owned or controlled by the Government of the United States shall, from time to time, inquire and report as to the existence, on or near such lands, of ruins and archaeological sites, historic or prehistoric ruins or monuments, objects of antiquity, historic landmarks and prehistoric structures, and other objects of historic or scientific interest.

14. The field officer in charge may at all times examine the permit of any person or institution claiming privileges granted in accordance with the acts and these rules and regulations, and may fully examine all work under such permit.

15. All persons duly authorized by the Secretaries of Agriculture, War, and Interior may apprehend or cause to be arrested, as provided in the act of February 6, 1905 (33 Stat., 700), any person or persons who appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument or any object of antiquity on lands under the supervision of the Secretaries of Agriculture, War, and Interior, respectively.

NOTE.—For copy of the act of February 6, 1905, see p. 203.

16. Any object of antiquity taken, or collection made, on lands owned or controlled by the United States without a permit, as prescribed by the act and these rules and regulations, or there taken or made, contrary to the terms of the permit or contrary to the act and these rules and regulations, may be seized, wherever found and at any time, by the proper field officer or by any person duly authorized by the Secretary having jurisdiction, and disposed of as the Secretary shall determine, by deposit in the proper national depository or otherwise.

17. Every collection made under the authority of the act and of these rules and regulations shall be preserved in the public museum designated in the permit and shall be accessible to the public. No such collection shall be removed from such public museum without the written authority of the Secretary of the Smithsonian Institution, and then only to another public museum, where it shall be accessible to the public; and when any public museum, which is a depository of any collection made under the provisions of the act and these rules and regulations, shall cease to exist, every such collection in such public museum shall thereupon revert to the national collections and be placed in the proper national depository.

WASHINGTON, D. C., *December 28, 1906.*

The foregoing rules and regulations are hereby approved, in triplicate, and, under authority conferred by law on the Secretaries of the Interior, Agriculture, and War are hereby made and established to take effect immediately.

E. A. HITCHCOCK,
Secretary of the Interior.

JAMES WILSON,
Secretary of Agriculture.

WM. H. TAFT,
Secretary of War.



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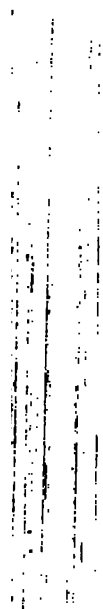
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